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ALBERT C. CLARK

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PRO T. ANNIO MILONE

AD IUDICES ORATIO

EDITED

WITH INTRODUCTION AND COMMENTARY

BY

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PREFACE

In these days, when the texts of classical authors are so constantly republished, it is, I conceive, the first duty of an editor to give some reason for the existence of his work. I therefore proceed to briefly explain the circumstances which have led to the appearance of this volume.

In a previous work I indicated the importance for this speech of the new material furnished by the Harleian MS. 2682[1]. I then intended to publish, as I hoped, soon afterwards a revised text of the *Miloniana* accompanied by some critical notes. I discovered, however, before long that the task I had engaged upon was more difficult than I had anticipated. In the first place, owing to doubts which presented themselves concerning the value of a well-known MS., the Salisburgensis, I found it necessary to make a collation of this, the result being to considerably modify the view of its merit which I had previously entertained. In order to better comprehend the process which has led to the formation of the inferior recension, found in the later MSS., I also collated several Oxford MSS.—a tedious task, but not, I hope, wholly without fruit. Secondly, upon making a more minute study of the oration, I felt that in several passages there was little reason for the interpretations which had become traditional, while real difficulties existed

[1] Anecdota Oxoniensia, Classical Series, Part VII. Oxford, 1892.

which had been screened off from the view of the reader. This is doubtless due to the fact that for generations the *Miloniana* has been extensively read in schools. A work chiefly meant for youthful students must above all things be simple, and to secure this result editors have frequently been content to let sleeping difficulties lie. The criticism of a school-book naturally tends to become stereotyped. This is especially the case when the book is frequently re-edited, the plausible conjecture of one writer being accepted without inquiry by his successors. The fact, however, that an explanation has been many times reprinted does not confer any sanctity upon it, and it is in the interest of scholarship that from time to time tradition should be called in question. I have therefore also ventured to add explanatory notes, in writing which I have always used my own judgment, even if this sometimes ran counter to received opinion. I have, of course, studied with diligence the many excellent commentaries which have appeared. Much has been said upon the text by Garatoni and upon the subject-matter by Osenbrüggen-Wirz, which no one can either omit or improve upon. The editions of Halm and Richter-Eberhard, primarily meant for schools, are models of good sense and precision.

I have drawn largely from numerous works which have appeared in recent years. To Dr. Landgraf my obligations are very great. His well-known edition of the *pro Sexto Roscio Amerino* is indispensable to the student of Cicero. I quote from this so frequently, that I deem it proper here to acknowledge my debt to him. I have also derived great help from the new edition of *Reisig-Haase's Vorlesungen*, by Landgraf and Schmaltz, which I have found a storehouse of information. The new edition of *Krebs-Allgayer's Antibarbarus*, by Dr. Schmaltz, is another work from which I have frequently borrowed. Among English writers I have learnt most from Messrs. Tyrrell and Purser, whose edition of the Letters has done so much to stimulate the study of Cicero in this country, and from the various works of Dr. Reid, more especially his edition of the Academics.

Since the appearance of my Anecdoton, several editions of this speech have been published. Mr. Poynton was the first to adopt some important readings taken from the Harleian MS. Mr. Colson, who reprints Müller's text, discusses in an Appendix a number of the variants to which I had called attention. I have found much that is useful in these scholarly works. Dr. Nohl has added to his new edition of Richter-Eberhard a discussion of the Harleian MS. and adopts some of its readings, although he is not prepared to admit the supremacy which I had in my Anecdoton claimed for it. Dr. Reid's edition appeared when my own notes were written and ready for the press. I need hardly say that, if I had known at an earlier period that he was engaged upon this speech, I should have shrunk from appearing to compete with so well-known a scholar. If my own work had not then reached so advanced a stage, my references to him would have been more frequent. I was pleased to find that in two passages [§§ 56, 63] readings, at which I had myself arrived, also commended themselves to him. I must here thank all these editors for their generous references to myself.

I have been very fortunate in the help which I have received from various friends. Foremost among these is Mr. Louis C. Purser, of Trinity College, Dublin, who has allowed me to consult him continually when I was in difficulty, and has given me advice, the value of which was only equalled by the modesty with which it was offered. For his sympathy and unselfishness in thus putting at my disposal his wide knowledge and sound judgment I cannot sufficiently thank him. In several places I acknowledge suggestions of his, while in many others he has corrected mistakes of mine, or shown me that I was upon the wrong track. It is only fair to him to say that in some cases he does not agree with a view which I advocate. I mention this in order that I may alone be criticized for my errors. I have also to thank Dr. C. O. Zuretti, of Milan, for his great kindness in making for me a most minute and elaborate collation of the palimpsest [P]. Mr. J. L. Strachan-Davidson, of

Balliol College, has advised me upon several historical points, and found time amid his manifold engagements to read the Introduction, and some of the notes. Mr. G. E. Jeans, of Hertford College, and Mr. A. S. Hunt, of my own College, kindly undertook to help me in correcting the proof-sheets, and made many helpful suggestions.

ALBERT C. CLARK.

QUEEN'S COLLEGE, OXFORD:
February 21, 1895.

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INTRODUCTION

I. Authorities for the Events of 52 B.C.

Our knowledge of the events connected with the trial of Milo reaches us from sources which are of very different value. I take first the Latin writers. These are,—

(i) **Asconius**, a learned Roman, who wrote notes upon a number of Cicero's speeches, possibly upon all, for the instruction of his sons. By an ingenious argument Kiessling and Schöll show that a comment of his upon a passage in the *pro Scauro* can only have been written between A.D. 54 and 57, i.e. early in the reign of Nero[1]. His sources of information were very extensive, since he not only quotes from the *Acta*, but also refers to historians, orators, and poets, whose works are now lost. He carefully points out writings which he looked upon as spurious, and wrote without any bias. He especially interested himself in points of minute detail, such as the exact date of an event, the name of a speaker, or the point of an obscure reference. His veracity and interest in research make the fragments of his work one of the most priceless relics of antiquity. With Asconius we feel that we are on firm ground. Unfortunately his text is in a very defective state, since we have only copies of the MS. discovered at St. Gallen by Poggio in 1416.

(ii) **The speeches and letters of Cicero.** The former are to be used with great caution, since they are coloured by party spirit, and are not free from wilful misrepresentation. Roman orators felt no shame in such matters, and Cicero more than once confesses to having thrown dust in the eyes of a jury[2]. The letters, on the other hand, especially those to Atticus, frequently contain confidential information of the highest importance, and throw great light upon the 'secret history' of the time.

(iii) **Casual notices in other authors**, e.g. Caesar, Suetonius, the epitome of Livy, Pliny the Elder, Seneca, and Valerius Maximus. Among these may be included Velleius Paterculus, from whose account

[1] See p. x of their edition.

[2] Quintil. ii. 17. 21, &c.

nothing new is to be obtained. He seems to regard the murder of Clodius as an incident in the sole-consulship of Pompey, instead of the immediate cause which brought it about. This was natural, since the results were so important as to dwarf the accident which made them possible. The one original statement which he makes, that Cato voted for the acquittal of Milo, is a bold one, since the more cautious Asconius reports that he could not obtain any certain information upon the subject.

(iv) **The Scholiasta Bobiensis** (saecl. iv/v); a name given to what appears to be a *corpus* of scholia of different date and value. The composite character of these is readily seen. Thus the sacrilege of Clodius is described both in the Argument to the *de Aere alieno Milonis*, and also in a note to the same speech, the two accounts being clearly due to separate writers. So on § 14 of this speech, *divisa sententia est* is erroneously explained, whereas the reference in the Argument agrees with the account given by Asconius. The relation of these scholia to Asconius has been frequently discussed. Gaumitz[1] holds that they are wholly independent ['er höchst wahrscheinlich dessen (sc. Ascon.) Kommentar zur Miloniana gar nicht kannte']. This opinion he bases upon certain divergencies, notably the different explanations given of the previous conduct attributed to Domitius [§ 22]. I show in my note that the discrepancy is in reality a very slight one, since they both refer to action taken by him against the same Manilius. To me it appears that the Scholiast is sometimes paraphrasing Asconius, while on other occasions he misunderstands him. Thus when Asconius says of Pompey that he was sitting *ad aerarium*, i.e. in front of the temple of Saturn, the Scholiast expands this, and says *primo quidem iudices consederunt in aede Saturni*. His statement that Clodius fled *metu peragitatus . . . in cauponulam* is an imaginative one, while his reference to Pompey as being *then* consul without a colleague is at least misleading. On the whole, except as containing scraps from earlier authorities, and probably from Asconius, I should not be inclined to attach much importance to these scholia, at least so far as this speech is concerned.

We have also detailed accounts in three Greek writers, whom I take in order of importance.

(v) **Plutarch** refers to the trial and events connected with it in his lives of Cicero, chs. 33–35, Cato minor, 47–48, Pompey, 54–55, and Caesar, 28. He gives us a good deal of independent information, and consulted original documents. In his life of Cicero he refers e. g. to

[1] Zu den Bobienser Ciceroscholien, Programm, Dresden, 1884.

Tiro's memoirs of Cicero, letters of the latter to Herodes, Gorgias, &c., now lost, letters of Brutus to Atticus, and other contemporary writings. That he was inexact will surprise no one. Thus he says that Caesar prosecuted Clodius *de incestu* [ch. 28], and that the senate decreed Cicero a triumph after his return from Cilicia [ch. 37]. The date which he assigns to Pompey's marriage with Cornelia, after his entry into Rome and before carrying his laws, is hardly consistent with the account of Asconius, which implies that the marriage had already taken place in Jan. 52.

(vi) **Dio Cassius**, who was consul A.D. 229 under Alexander Severus, has written a valuable account of the incidents [xl. 48–55]. His view of the situation is very just, while he gives independent information which appears to have been founded upon documentary evidence. He has a tendency to exaggerate, e. g. his account of Cicero's breakdown at the trial is certainly overdrawn. There are also some minor inaccuracies. Thus he says that Milo was not condemned for *ambitus*, after his condemnation for *vis*. When he remarks that under the laws of Pompey either party could challenge five jurors, he does not explain that this meant five from each order, i.e. fifteen in all. Also, he appears to antedate the *sen. cons. ultimum*[1].

(vii) **Appian**, who lived under Hadrian, compares very disadvantageously with the other writers on this subject. The most extraordinary of his blunders is a statement that Pompey sent Cato to Cyprus to get him out of the way; obviously a confusion with the mission which Cato undertook in 58 under a measure of Clodius! If Appian had looked at this speech, he would have seen that Cato was on the jury. His account of the *contio* held by Caelius is a curious one. He conceives that Caelius brought Milo before a meeting of the *Comitia* assembled for judicial purposes, hoping that if he were there 'acquitted,' he would escape in subsequent proceedings. The plot, however, was frustrated by *τὸ ἀδιάφθορον τοῦ πλήθους*, and these 'incorruptibles' then went on to a great riot, in which they singled out well-dressed persons whom they killed for their jewellery[2]. An equally improbable statement is that Milo was leaving Rome on the day of the murder in order to retire to his native Lanuvium, being distressed by Pompey's faithlessness towards him[3]. His account of the trials which took place under Pompey's laws is an extraordinary jumble, which I can only account for, by supposing that he has compressed into this year all the trials of which he had any record in

[1] See p. xxiv. *n.* 2.

[2] *Ἀναιρούντων ἀστὸν ὁμοῦ καὶ ξένον καὶ μάλιστα ὅσοι ταῖς ἐσθῆσιν ἢ σφραγῖσιν ἀπὸ χρυσοῦ διέφερον*: ch. xxii.

[3] *Βαρυθυμῶν ὁ Μίλων ὡς καὶ περὶ αὐτὸν ἀπίστου γενομένου τοῦ Πομπηΐου ἐς τὴν πατρίδα Λανούβιον ἐξήει*, ch. xx; cf. Thouret, Leipz. Stud. i. 342.

his notes as having taken place at about this period. The first persons condemned according to him are—Μίλων ἐπὶ Κλωδίου φόνῳ καὶ Γαβίνιος παρανομίας ὁμοῦ καὶ ἀσεβείας ὅτι χωρὶς ψηφίσματος ἐς Αἴγυπτον μετὰ στρατιᾶς ἐσέβαλεν ἀπαγορευόντων τῶν Σιβυλλείων [i.e. for *maiestas* and *caerimoniae violatae*]. He adds that the goods of Gabinius were also confiscated (δήμευσις ἦν ἐπὶ τῇ φυγῇ). The facts about Gabinius are well known. He was first accused of *maiestas* in 54 and acquitted, mainly in consequence of Pompey's exertions, who put pressure upon individual jurymen and threw out hints of a dictatorship[1]. A full account of the trial is given by Dio, from which it appears that the arguments were mainly concerned with the count of *caerimoniae violatae*[2]. He was then accused of extortion and condemned. That Pompey was no less earnest in his behalf on this occasion may be judged from the fact that he forced Cicero to defend him, a humiliation to which he had previously refused to stoop in face of the greatest pressure. The hypothesis of Zumpt, who supposes that—as confiscation of property did not follow in a suit for extortion—he was again arraigned in his absence upon the charge of impiety, and condemned, is altogether untenable[3]. What motive could Pompey have for attacking in this vindictive manner his old friend and lieutenant?

I dwell upon these blunders of Appian since there is one strange statement of his to which undue credence has been given. In describing the law of Pompey *de ambitu*, he says that it embraced all offences committed since his first consulship in 70; a provision which alarmed Caesar's friends, who saw in it a menace to him. Mommsen accepts this statement without question, as do all the most recent authorities. I regard it as very improbable. Asconius says nothing of any such provision. It is unlikely that Pompey would wish his own dirty linen to be washed in public. He was himself accustomed to win elections by the methods which Philip of Macedon found irresistible when attacking fortresses, namely, by the use of his money bags[4]. Nor could he have passed such a measure through the senate, in which there was no one, not even the honest Cato, whose past career would enable him to throw the first stone[5]. A still more convincing argument is to be found in the fact that we hear of no one tried whose misdeeds went further back into the past than 54. It is, I think, exceedingly doubtful whether any one was tried at all, except for his share in the bribery prevalent in 53 and 52. The cases

[1] Q. F. iii. 9. 3.

[2] Dio, xxxix. 62. 63. He is tried περὶ τῆς τοῦ Πτολεμάου καθόδου. His defenders urge ἄλλον βασιλέα πρὸς τῆς Σιβύλλης εἰρῆσθαι. He is then condemned ἐπὶ βραχυτέροις εὐθυνόμενος. [Ib. ch. 55, for account of the trial for extortion.]

[3] Zumpt, p. 552. [4] Att. i. 16. 12. [5] Suet. Caes. 19.

mentioned by Appian in addition to those of Milo and his rivals, e.g. Hypsaeus, are those of Scaurus, Memmius, and Sestius. We know from Cicero[1] that the last was tried under the *lex Pompeia*, and one would naturally expect to find him in trouble together with Milo[2]. The case of Scaurus is one of special interest. He was originally accused of extortion by Triarius in 54. The charge was laid on July 6, and he was acquitted on Sept. 4, after having been defended by Cicero. Triarius then renewed the attack, and accused him of bribery, shortly before Oct. 10 in the same year. We have no record of the verdict, but we know that he was not elected consul in 53, for which office he had been standing. Drumann, who rejects the story in Appian, supposes that he was condemned. Zumpt, who accepts it, thinks he was then acquitted, and tried again under the *lex Pompeia*. In support of the first theory I would point out that in 53 the house of Scaurus was in the market, and was bought by Clodius[3]. In connexion with this sale there is a significant passage, De Officiis, i. 138. The builder of the house, Cn. Octavius, was the first of his family to become consul, and the view of his great mansion was thought to have given him dignity in the eyes of the voter. Scaurus pulled down this house, and added a fresh wing to his own upon the site. 'Octavius,' says Cicero, 'was the first to bring the consulship to his house. Scaurus . . . in domum multiplicatam non *repulsam* solum attulit, sed *ignominiam* etiam et *calamitatem*.' As the house was sold in 53, the *calamitas*, or condemnation and loss of status, would naturally be prior to this, in which case the conclusion is hostile to Zumpt's theory, and to Appian's pretensions to veracity.

In the remaining case, that of Memmius, we have fewer facts to go upon. He was a candidate, together with Scaurus, and was accused of *ambitus* at the same time[4]. In 51 he was in exile at Mytilene. The probability is that he was condemned at the same time as Scaurus. We hear nothing more of him as a candidate for the consulship in 53. Appian goes on to narrate, that, after his condemnation, he endeavoured to rehabilitate himself by accusing Metellus Scipio. It is significant that the more careful Dio, when speaking of the charge brought against Scipio, says he was accused ὑπὸ δυοῖν[5], and does not mention Memmius.

[1] Att. xiii. 49. 1.

[2] It is at least as likely that Appian is thinking of the previous trial, when the *pro Sestio* was delivered, and assigned this to the wrong year.

[3] Ascon. 33 erat domus Clodi ante paucos menses empta de M. Scauro in Palatio.

[4] Q. F. iii. 2. 3.

[5] I take this to mean two rival accusers. Zumpt harmonizes the statements by supposing that Memmius found a *subscriptor*.

If the preceding remarks are correct, there is no evidence that any one was prosecuted except those persons directly implicated in the events of 53 and 52. If, however, the statements of Appian are upheld, it still remains that we know of no one who was tried for misdeeds further back than 54. There is nothing in the record of cases to justify the statement, that the retrospective action of the law extended to 70.

The mistake probably arose in the following manner. The law of Pompey was criticized at the time as being retrospective. Thus Cato urged 'let byegones be byegones[1].' Later writers, wishing to explain 'retrospective,' fixed the second consulship of Pompey in 55 as the limit[2]. Appian first of all confused the second consulship with the first, and then proceeded to invent the story that the measure was aimed at Caesar, and that the friends of the latter protested against such an action. If so, this, in connexion with his other blunders, throws a curious light upon his methods as a historian.

II. Historical Introduction.

The feverish anarchy which prevailed at Rome throughout this period was without doubt the most significant of the many alarming symptoms which pointed to the speedy dissolution of the Republican system. The maintenance of public order was entirely neglected by the state, or rather was not recognized as a matter which concerned the executive. The individual had to take the law into his own hands. A Roman built his house to stand a siege, and when he went about the streets was accompanied by an armed retinue. The magistrates, so far from endeavouring to suppress disorder, were themselves the chief offenders, the problem for the 'practical politician' of the day being how to hold the place of assembly against his rivals, while his hired gangs met in the name of the Roman people, and made binding throughout the civilized world any proposal, however mad or flagitious, which he cared to bring forward. The leading part in this carnival of misrule naturally fell to the tribune, who, in virtue of the sanctity of his person, enjoyed the singular privilege of being able to assault any other magistrate, while the injured person was unable to retaliate.

Under these circumstances rioting became chronic at Rome. In a well-known passage[3] Cicero describes a memorable party-fight, which

[1] Plut. Cato min. 48 *ἐπὶ τοὺς δεκασάντας ἤδη τὸν δῆμον ἐπιτίμια καινὰ καὶ δίκας μεγάλας τοῦ Πομπηίου νομοθετοῦντος.*

[2] See Fischer, Römische Zeittafeln, p. 257.

[3] Sest. 77.

took place in 57 B.C. 'You remember, Gentlemen of the jury, that the Tiber was filled with the bodies of citizens, that the sewers were choked, that blood was mopped up with sponges from the Forum.' This was a new development, but his description of previous practice is equally instructive. 'We have often seen stones fly, we have seen swords used, not so often, yet still too often, but whoever saw such a massacre, such piled-up heaps of bodies in the Forum, except perhaps on the day when Cinna and Octavius fought? What was the cause of the excitement? A riot often arises from the veto of an obstinate or uncompromising tribune, or from a culpable and unscrupulous proposal meant to win over the ignorant by the promise of advantage, or again from a rivalry between magistrates. It begins imperceptibly; first comes an uproar, then a swaying to and fro within the meeting. It is with reluctance, late in the day, and seldom, that men resort to blows. Who ever heard before of a riot at night when not a word has been said, no meeting called, no law read aloud to the crowd?'

This account is without doubt exaggerated for oratorical purposes, but cannot be dismissed as mere rhetoric. A story told gravely by a serious antiquarian, who gives quotations from official documents, is more significant[1]. In this same year Pompey suspected that his life was in danger from a slave of Clodius. He took refuge in his house, and shut himself up there. Clodius replied by sending a satellite of his, one Damio, who, of course at the head of a gang, laid formal siege to the Great Conqueror of the East. Damio was disturbed by one of the praetors for the year, upon which, holding that as a citizen he had a constitutional right to besiege another citizen, he appealed to a tribune for protection, selecting one whom he had himself assaulted. The decision is quoted from the *Acta*. The tribune says, 'he has himself been wounded by Damio, Pompey is being beleaguered in his house, still as a conscientious officer he has no alternative but to rescind the proceedings,' thus setting Damio free to continue the siege.

This astonishing story reveals clearly the cause which chiefly contributed to the growth of the evil: viz. the exaggerated respect for the freedom of the *civis*, and the consequent enfeeblement of the executive. The early legislators had consistently laboured to produce these results. The death-penalty had become obsolete; the sacred body of a Roman citizen was not subject to stripes or physical indignity. Outlawry, which had been substituted for death, could be evaded by going into exile. This provision might have some justification in the case of political offenders,

[1] Ascon. on § 37.

but was manifestly inapplicable to ordinary criminals. The Roman law, however, drew no distinction between the two classes. The felon or murderer could 'take sanctuary[1]' in exile, and there begin his operations anew. Sometimes it was not necessary for him to go far. Such a monster as Oppianicus of Larinum, with the blood of unnumbered victims upon his hands, is able not only to roam about Italy, but even has a lodging just outside Rome[2]. The treatment of vulgar crime by the Romans is a matter of some obscurity, since our record of such cases is scanty. That however such offences could only be proceeded against before an ordinary *quaestio* is clear[3]. A magistrate could only employ his *coercitio* within narrow and recognized limits[4]; otherwise, as in the case of Damio, he would be checked by the intervention of a tribune. The *triumvir capitalis*, who was at the head of the weak police, could indeed arrest a criminal for inquiry[5], but it is not conceivable that he would have been able to violate the person of a citizen by the infliction of appropriate penalties. The conclusion is startling, since it follows that crime of every description, such as is found in all large centres of civilization and must have been rampant at Rome, was, if committed by a citizen, protected from the sword of justice. Roman legislators had never contemplated the task of governing a large criminal population. The mob, however, such as now existed, pauperized by public doles, brutalized by the horrors of the arena, and degraded by the continued infiltration of slave-blood, possessing nothing but a dagger to use and a vote to sell, was manifestly unfit for such extraordinary privileges. Further, while the penalty awarded to crime was thus inadequate, it does not appear to have been rigorously inflicted. A generation, which allowed the owner to torture or put to death his slaves, as the humour seized him, was strangely sentimental when the *caput* of a Roman was concerned. In no other way can we explain the language of the orators, who speak of the trivial penalty of exile as something too cruel for merciful men to inflict upon a fellow-creature[6]. Humanitarianism ran within a narrow channel at Rome, but it ran deep. The inviolability of the citizen had indeed become a mischievous anachronism, and it must have been a benefit to the world, when under the Empire the criminal was made to suffer in life and limb for his crimes.

The story of Roman anarchy is inseparably connected with the name of Clodius. It is not here to the point to inquire what degree of credence

[1] Caecin. 100. [2] Clu. 175.
[3] Cf. the list of ordinary 'criminal cases,' Nat. D. iii. 74.
[4] Mommsen, Staatsrecht, i. 149.
[5] Clu. 38. [6] § 5 *n.*

should be given to the various charges brought against his private character. Our information largely comes from Cicero, who is a prejudiced witness. The orator was a good hater, and it was a necessity of his nature to have an enemy. Clodius may not have been so black as he is painted. We know from Cicero himself that there was much that was charming in the complicated and many-sided character of Catiline[1]. An act of generous forgiveness on the part of Clodius became classic[2]. The Roman nobles, who were always ready to overlook *peccadillos* in an aristocrat, petted Clodius[3], and evidently looked on him as an amusing person, not quite responsible for his actions. However, after making all possible allowances, it cannot be doubted that he was devoid of all conscience, and paraded his contempt for law, order, and morals in an unblushing manner. This cynicism was characteristic of the young men of the day, and in him we find an exaggeration of the type to which Curio, Caelius, Dolabella, and many others belonged. As a politician his chief object was *s'encanailler*, and so successful was he in this that he is known to history, like his equally famous and more brilliant sister, not by his patrician name of *Claudius*, but by the popular pronunciation of the name. He had no serious end in view except to amuse himself by making government impossible, while his peculiar delight was to worry his sensitive enemy Cicero, or to reduce to impotence Pompey the Great.

Clodius reigned through his *operae*, or 'gangs,' which broke up meetings, shed blood freely, and controlled both the streets and the comitia. The nucleus of these probably consisted of freedmen, a class which must have been attracted to him by his revival of the old democratic proposal to enrol them equally in all the tribes. He also, by an innovation in Roman politics, employed slaves. One of his most notable achievements, that in fact upon which his power rested[4], was the legalization in 58 of the so-called *collegia Compitalicia*, or religious guilds of the lower orders, to which slaves were admitted as well as citizens[5]. These guilds were turned into political clubs, and received a semi-military organization[6]. Rome was mapped out into districts, and each ward had its officers. It needed but a word from Clodius to call forth his sinister battalions from the alleys and slums, and with their aid he could terrorize Rome. Even the great Pompey was impotent in the face of these organized rioters, and together with the *optimates* in general hailed a saviour of society in the person of Milo.

T. Annius Milo Papianus was of municipal origin on his father's side,

[1] Cael. 12 sq. [2] Val. Max. iv. 2. 5. [3] Fam. i. 9. 19.
[4] Cicero ascribes his exile to this, Att. iii. 15. 4.
[5] Sest. 34, Pis. 9, and Ascon. *ad loc.* [6] Momms. iv. 296.

coming from Lanuvium, a township which had also sent to Rome at this period the actor Roscius and the consul Murena[1]. The family of Papii seems to have been of Samnite origin, and the name frequently occurs in the annals of the secular struggle waged by that hardy race with Rome. On his mother's side he was connected with a good Roman family, that of the Annii Lusci, which had produced two consuls in the previous century. He was adopted by his grandfather, T. Annius, who left him his fortune. His own name was properly T. Annius, but he was generally known by the nickname Milo, probably given to him since his physical powers recalled those of the famous athlete of Croton[2].

The fierce blood in Milo made fighting a joy as well as a profession to him, and he eagerly embraced the new career made possible for him by the anarchy at Rome. If Clodius enlisted slaves, Milo assembled gladiators, and by the help of their swords drove him from the streets. It was to Milo, and to him alone, as Cicero gratefully records, that he owed his restoration from exile. Pompey condescended to use him as a tool, and he became the great optimate hero. No one ventured to reproach him with his municipal extraction. The most fashionable circles were open to him, and when Fausta, daughter of Sulla, a great lady with a seamy past, wedded the doughty fighter on November 17, 55, he became connected with the proudest families in Rome[3]. Her caprice, it is true, did not last long, since she was soon afterwards surprised with a lover, the historian and moralist, Sallust[4].

The political career of Milo began in 57 B. C. and was terminated by his exile in 52. During this time he was in constant opposition to Clodius. The story of their struggles is so familiar to every reader of Roman history that it need not be repeated here. It is, however, in the light of after events, interesting to read these words of Cicero about his 'hero' late in 57 B. C. 'His courage is astonishing. I say nothing of recent superhuman acts of his. The sum of the whole matter is this. I do not think the election will be held. I think Clodius will be accused by Milo, if indeed he does not kill him first. If he comes near Milo in

[1] Muren. 90, Div. i. 79.

[2] Att. vi. 4. 3 τοῦ Κροτωνιάτου τυραννοκτόνου.

[3] E. g. the Fausti Sullae, and Aemilii Scauri. Her brother Faustus was married to a daughter of Pompey. Fausta's half-brother Scaurus was connected with the Claudian house by marriage, his wife Mucia being a sister-in-law of Clodia (Fam. v. 2. 6). It is noteworthy, that it was her niece, Pompeia, who had been compromised by Clodius in the affair of the *Bona Dea*, while her nephew, Q. Pompeius Rufus, openly took Clodius as his model (Ascon. on § 67).

[4] Varro, *ap.* Gell. xvii. 18 C. Sallustium . . . in adulterio ab Annio Milone loris bene caesum dicit, et cum dedisset pecuniam, dimissum.

a riot, I foresee that Milo will kill him with his own hands. He has no hesitation; he does not hide his intention; he does not fear my fate[1].' In view of this frank statement made five years before, there can be no doubt of the murderous intentions of Milo. Nor was Clodius less outspoken. If three days before his own murder he prophesied the speedy death of Milo, we may be sure that this was not the first time he had avowed his determination to rid himself of his fierce antagonist.

Once embarked upon the *cursus honorum*, Milo naturally expected to go on. We know nothing of his praetorship[2]. He appears to have held the office in 55 B.C., a year in which it was not possible to signalize himself. In 53 he appeared as a candidate for the consulship of 52.

The candidature of Milo must have been highly inconvenient to Pompey, who at this particular time was playing a very subtle game, in which the advancement of Milo formed no part. His object was to become *dictator*; and to secure this end, if he did not foment the anarchy, he allowed things to drift, until the evil should become intolerable. In the middle of 54 the dictatorship of Pompey was already 'in the air[3],' and from time to time the report that the great man wished to have the office offered to him was circulated by the band of 'confidants[4],' whose business it was to divine the secret desires of their shy and hypocritical master. What he really wished was hard to tell. 'Pompey says plainly that he does not want to be dictator: previously in speaking to me, he did not say "no." Hirrus appears likely to make the proposal. Heavens, how fatuous he is' [*sc.* Pompey], 'lost in adoration of himself, a lover without a rival.... Whether he wants it, or wants it not, is not easy to say. Still if Hirrus proposes it, he will not be able to convince people that he does not want it[5].' In 53 the moment might seem to have arrived, since no elections at all could be held on account of the disorder. Pompey however was in no hurry, and, when he appeared upon the scene, condescended to quiet the storm, and consuls were elected for the remaining portion of the year. For the next year he put forward two nominees of his own—Q. Metellus Scipio, whose daughter he afterwards married, and Hypsaeus, one of his 'confidants.' How far he was sincere in the support he gave them, must remain uncertain. His devotion to Hypsaeus, whom in the following year he surrendered to the enemy, was probably but half-hearted[6]. In any case his influence

[1] Att. iv. 3. 5.
[2] § 68 *n.*
[3] Att. iv. 18. 3 non nullus odor dictaturae.
[4] Pompei familiares, Att. iv. 1. 7, Fam. i. 1. 3, &c.
[5] Q. F. iii. 8. 4.
[6] p. xxviii.

was thrown definitely against Milo, whose election would have been a serious impediment to the execution of his carefully-thought-out plan.

To Caesar, then preparing for his mighty struggle with Vercingetorix, the candidature of Milo must have been still less agreeable. Milo was not himself a man to initiate a policy, but he was an invaluable instrument in carrying out the ideas of others. With Cato, Bibulus, and Domitius Ahenobarbus at his back to inspire him, the 'fighting consul' would at once have proceeded to attack the 'citadel[1]' of Caesar, by impugning the legality of his acts during his consulship.

From the point of view of public interest the election of Milo would have been a deplorable one. He had given no indication of any higher qualities than those suitable to a captain of *banditti*. His savage instincts, foolhardy courage, and narrow vision made him incapable of realizing the responsibilities of office. His talent for running into debt struck his friends as amazing[2]. If he had been sent to a province his rapacity must have known no bounds. Verres was content to make 'three fortunes[3]' in Sicily, but Milo had squandered three inheritances already[4], and the exactions of such a spendthrift must have been colossal, if he wished to replenish his empty coffers.

Cicero was Milo's most enthusiastic backer. He never forgot that although Pompey sanctioned his recall, and the *optimates* made it a party-question, still it was to Milo that he owed everything. One of the most charming traits in his character is the warmth of his gratitude to those who worked in his behalf, not only to Milo, but also to the cross-grained and chilling[5] Sestius. Also, in the matter of his friends, he was an incurable optimist. He did not see that there was no room for such a person as Milo in a civilized community. The year before he incurred the ridicule of Caesar by endeavouring to bring about a reconciliation between him and Milo[6], while he was seriously disappointed, when he found that Pompey definitely set his face against his former associate. He endeavoured to secure for Milo young Curio, then coming back from Asia, whose peculiar genius for intrigue would have made him an admirable electioneering agent. He says, 'We want a leader, an adviser, some one to rule and guide the influences of which I spoke, and, if we had to choose one person out of all mankind, I know of no one comparable to yourself[7].' Curio, however, the 'creature of impulse[8]' as his friends considered him, was too wary to accept the

[1] Fam. i. 9. 8 in arcem illius causae invadere.
[2] Q. F. iii. 9. 2.
[3] Verr. A. Pr. 40.
[4] § 95.
[5] § 38 *n*.
[6] Fam. vii. 5. 3.
[7] ib. ii. 6.
[8] ib. viii. 4. 2 Curio, qui nihil consilio facit, [Caelius.]

invitation. He was an old friend of Clodius, and had just been quaestor to his uncle, C. Claudius. Probably also Fulvia, the wife of Clodius, whom he afterwards married, had him already under her control. We have no record of the part taken by Caelius, but we may be sure that he was Milo's right-hand man during his canvass, as he was his fearless defender in 52. His love of excitement, his sporting interest in elections, his determination not to surrender a comrade, attached him closely to Milo, while his hatred for the whole Claudian house, the legacy of his amour with Clodia, would add bitterness to his acrimonious tongue[1]. The Right wing of the *optimates*, headed by Cato, adopted Milo as their candidate. He may have possessed military abilities; his courage at any rate was undeniable. With Milo in a province, and at the head of an army, they would at last have a general of their own, to serve as a check to Caesar, and save them from their dangerous friend, Pompey. Milo's great strength however lay in himself. He had gained a large section of the rabble by his extravagance and the splendour of his games. Above all, he had his gladiators, and with their aid might clear the *Campus* of his opponents, and secure his election by a packed assembly.

To prevent this it was necessary to break up the assembly, whenever it was called together. This was done by the hostile tribunes, who on every occasion announced unfavourable omens. This abuse of the *obnuntiatio* had been practised by Milo himself in 57. We have an amusing description of such tactics. 'On Nov. 20 Milo came into the *Campus* with a large force. Though Clodius had a picked body of runaway slaves, he did not venture inside. Milo remained there until mid-day. . . . Metellus Nepos however challenges Milo to use the omens against himself in the Forum next day, saying that it was useless for him to occupy the *Campus* at night. He would be in the Forum at six in the morning. Milo thereupon occupied the Forum on the 21st, during the night. Metellus at daybreak was hurrying stealthily by a circuitous route to the *Campus*. Milo overtook him by the Grove, and announced the omens. He retired amid loud and insulting jeers from Q. Flaccus[2].' Milo had against him three tribunes—Q. Pompeius Rufus, his wife's nephew; Sallust, her lover, still smarting from his bruises; and Plancus Bursa, once a client and now a bitter foe of Cicero[3]. His former methods were therefore used against himself.

One attempt made to foil his candidature is especially interesting. A candidate, when giving in his name, was expected to declare the

[1] For Caelius, see the brilliant sketch, Tyrrell and Purser, vol. iii. p. xxxviii sqq.
[2] Att. iv. 3. 4. [3] Fam. vii. 2. 2.

amount of his debts; the intention being to exclude any one whose insolvent condition made it likely that he would endeavour to enrich himself at the public expense. This must have been a mere form, and Milo treated it as such, returning his debts at 6,000,000 sesterces[1]. Clodius thereupon publicly questioned Milo upon the subject in the senate, and was replied to by Cicero, who inveighed against the past career of Clodius in terms similar to those used in the *pro Milone*, and particularly denounced the proposal of Clodius to give equal voting rights to the freedmen.

The year closed without any elections having taken place. There were no magistrates at Rome, except the tribunes, and these, with the connivance of Pompey, who saw the fruit now within his grasp, would not allow an *interrex* to be chosen, with a view to the ultimate holding of the *comitia*. At last came the inevitable end. The rivals met upon the Appian Way, and the fate which had so long been hanging over Clodius descended upon him. The story of the murder is told by Asconius with scrupulous fairness. He probed the facts to the bottom, and has given us an account which is a model of patient research.

That the encounter was an accidental one is the conclusion of Asconius, and there is no reason to doubt the truth of this. If the murder had taken place during the fray, it is possible that a lenient view would have been taken of the occurrence, as in more modern times, when a duellist killed his antagonist in fair fight. The Romans however, with their sentimental regard for the life of a Roman, even if he were a criminal, heard with horror how the defenceless and bleeding wretch had been dragged out of his hiding-place, robbed of his ring, and butchered on the high-road, while the keeper of the tavern at Bovillae, who had given him shelter, shared his fate. There were ugly tales in circulation as to what happened after the murder. A credible witness, a person of some position[2], in whose villa near Ulubrae, not far from the scene of the tragedy, Cicero had once stayed as a guest[3], afterwards gave evidence that he and four other men, all citizens, had been passing by at the time of the murder, and that when they called out, and interfered, they were seized by Milo, and imprisoned in his villa. Another story was, that after the slaughter Milo searched the villa of Clodius in order to find and murder his infant son, and failing to discover him, killed the bailiff and two other slaves, while one faithful servant was tortured to death, Milo's men cutting him 'limb from limb[4].' In his

[1] De Aere al. Mil. *Argum.* When he went into exile he owed 70,000,000 sesterces, Plin. N. H. xxxvi. 104.

[2] Ascon. 38. [3] Fam. vii. 18. 3. [4] Ascon. 36.

speech Cicero makes no reply to these charges, and says nothing of Milo's movements after the murder.

The story of the arrival of the body in Rome, the theatrically-expressed grief of Fulvia, the surging crowd round the great house on the Palatine, the carrying of the naked corpse into the Forum, where, with ghastly realism, it was placed upon the Rostra, is dramatically told by our authorities. The final outbreak reminds us of the similar scene which took place some eight years afterwards.

First Cit. 'Come, away, away!
We'll burn his body in the holy place,
And with the brands fire the traitors' houses.
Take up the body.
Second Cit. Go fetch fire.
Third Cit. Pluck down benches.
Fourth Cit. Pluck down forms, windows, anything[1].'

Not the least striking feature in this last outrage upon public decency was that the tribunes, Plancus and Q. Pompeius Rufus, were ringleaders in the riot, and themselves 'singed[2]' in the gigantic bonfire, which consumed the carcass of the demagogue. The impression created was so profound that even Milo ventured back, and audaciously resumed his canvass.

The time, however, had now arrived, when Pompey's tortuous policy was beginning to bear fruit. Nothing but martial law could cure the maladies which afflicted the state. This was clear to the general body of reflecting persons, who were not committed to either party. Even the sooty rioters, still begrimed with the smoke of the funeral pyre, ended by shouting themselves hoarse for Pompey, whether as consul or dictator, but above all, Pompey[3]. It only remained to convert the extremists in the senate.

It is important to remember, that at this period Pompey, as proconsul, was outside Rome[4], and had no legal right to enter the city. He therefore remained in inactivity in his *horti*, calculating that sooner or later it would be necessary for the *optimates* to offer him the post, which he coveted, in order to obtain his presence in Rome. Meanwhile they endeavoured to govern without him by appointing an *interrex*. The attempt failed, since they had no military force to back them. The *interrex* was besieged in his house throughout his five days

[1] Shakespeare, Julius Caesar, iii. 2. 259 sqq.
[2] Ascon. on § 12.
[3] Ascon. 34.
[4] Ascon. *in Scaurianam*, 29, Pompeius . . ., quod erat pro cos., extra urbem morabatur.

of office. A series of *interreges* followed, all equally impotent to hold an election. Meanwhile Rome was given up to the horrors of mob-law. A funeral feast in honour of Clodius was celebrated eight days after by the crowd in the Forum[1]. The passions of the mob were excited to fever-heat by the daily meetings of the three tribunes. On the other hand, the indomitable Caelius harangued his partisans.

At last it became necessary to do something, and so, either in the intercalary month[2], or late in February, which preceded it, the senate issued a formal commission to 'the *interrex*, the tribunes, and Pompeius, the proconsul stationed outside of Rome,' to take measures for the public security[3]. On receiving this charge, Pompey acted with his ancient rapidity. At the stamp of his foot recruits came pouring in from the country towns of Italy, and he became master of the situation. The disorder ceased. Milo offered to give up his candidature, if Pompey wished. Pompey replied with one of those haughty answers which he knew so well how to give to his old friends[4]. Meanwhile the *interregnum* still continued, though obviously it must soon end. The only function of an *interrex* was to elect a consul; and there was no longer any difficulty about holding the *comitia*. As, however, the military power was in the hands of Pompey, it was out of the question to create magistrates superior to himself. The natural solution therefore was to make him dictator. The senate compromised matters, by inventing for him the title of sole-consul, which was given him on the proposition of Bibulus, seconded by Cato, who thus confessed the failure of their endeavour to govern without him. The carefully-planned combination of Pompey was thus entirely successful. The assembly was convened by the *interrex*, Servius Sulpicius, and he was duly elected on the 24th day of the intercalary month.

On the 27th Pompey assembled the senate. It was impossible for the friends of Milo to resist the demand for a judicial inquiry; but they managed to include within its scope the riots which had followed in Rome, as well as the murder itself, thus placing a number of Pompey's adherents in an awkward position. They also proposed that Milo should be tried *extra ordinem* before a special commission. Nothing was said about the composition of this body, which therefore would have been

[1] Dio Cassius, xl. 49.

[2] The *sen. cons. ultimum* is antedated by Dio, xl. 49, who assigns it to the evening of Jan. 19. This is inconsistent with the statement of Ascon. 35, who ascribes it to the failure of the *interreges* to hold the elections, and incompatible with the inactivity of Pompey, who on the 22nd (Asc. on § 67) was still in his *horti* doing nothing.

[3] Ascon. 35.

[4] p. xxviii. *n.* 6.

empanelled after the ordinary method. If Pompey had allowed this to pass, he would have stultified himself. Milo must be tried by martial law, or not at all. All the usual machinery by which a verdict was extorted from a jury would have been put into motion. Bribery would have been practised upon a colossal scale. The jurors would be intimidated by the number of *laudatores*, men of rank like Faustus Sulla, or of moral influence, such as Brutus and Cato. The dialectic of Hortensius, the gibes of Caelius, the pathos of Cicero, that great master who could work upon their feelings as a musician on the strings of a lyre[1], would all be brought to bear on them. The advocate would not shrink from that final *coup* which had once snatched a notorious criminal from justice[2]. He would bare the breast of Milo, and show the scars, all in front, dealt by the gangs of Clodius. On going to vote the jurors would have to pass on either side a line of weeping friends, imploring them individually for mercy[3]. Under this ordeal the morals, the intelligence, or the nerves of a jury might well have given way. This part of the proposal was therefore vetoed, and Pompey was at liberty to bring in his own laws. These were two in number, one dealing with the riotous acts in question, and another with the bribery which had been recently practised[4]. The special objects of these laws were to secure brevity in the proceedings, to make corruption impossible, and to curb the eloquence of the orators. The hearing of evidence was to be the chief part of the trial. Two hours only were allowed for the speech of the prosecuting counsel, and three for the reply. The jurors who were to vote were only chosen out of a larger body on the morning of the last day; an ingenious provision which put bribery out of the question. These measures were wise ones. Pompey found Rome in anarchy. The only remedy was to proclaim a state of siege, and to proceed by martial law. The orators, however, were highly indignant at the 'gag' thus put upon their eloquence, and Caelius attacked Pompey as the 'gagger' with such violence that he could only be silenced by the threat to use force.

Under the provision of the law, the Presidents in these two courts were to be elected by the popular vote: in the case of the more important commission, that *de vi*, only an ex-consul could be appointed. L. Domitius Ahenobarbus, a representative optimate, was nominated by Pompey[5], and duly elected. Pompey won general admiration by the fairness with which he formed the list of jurors, selecting the most honest and distin-

[1] Brut. 200. [2] Verr. v. 3, de Or. ii. 194, Brut. 222.

[3] See the very instructive account of the trial of Scaurus, given by Ascon. *in Scaurianam*, 29.

[4] For the purpose and scope of Pompey's law *de ambitu* see p. xii. [5] § 22.

guished men in Rome. Among them was the moralist, Cato, who on entering the box ceased to be a partisan; a formidable juror, whom the culprit hesitated to challenge lest it should be thought he had a bad conscience [1], and who incorruptibly condemned friend and foe alike.

Public opinion was becoming increasingly hostile to Milo. The mist of passion began to lift, and men saw with horror the precipice yawning before them. A fit of morality passed over Rome, and to appease the conscience of the community, a victim had to be found. Milo was a man of no illusions, and saw that he was lost. He refused to go into mourning, and appeared with that old defiant look [2], which men knew so well. That he had no aversion to the ordinary methods of exciting compassion is clearly shown by his behaviour two years before, when he had been one of the kneeling suppliants who entreated mercy for Scaurus [3]. Two friends at least were staunch to him, Caelius and Cicero. That Caelius should have been faithful is no matter for surprise. His attachments were warm, and the opportunity of flouting, not only public opinion, but the great Pompey, would be irresistible to him. Cicero's devotion is more creditable to him, since the tribunes, Q. Pompeius Rufus, and Plancus, 'the ape' of Clodius, threatened to impeach him before the people; a menace which must have seriously alarmed his nervous disposition. Still he resolved to be a grateful man, and refused to desert that compromising friend who had brought him back from exile.

Milo meanwhile had been accused on four counts, two of course being under Pompey's laws. For the murder he was prosecuted by two nephews of the dead man, whose right to bring the charge no one disputed. They also laid a charge of bribery against him, but here they had first to compete with rival accusers. The right to prosecute was finally awarded to them. He was also accused of having entered into illegal associations (*de sodaliciis*), and of riot, apparently under the provisions of the old *lex Cornelia* [4]. The prosecutors under the two latter charges were mercenary persons who hoped for a judgment by default, in which case they would claim the reward given to a successful accuser.

The Presidents in the two courts, which were to hear the first or the serious charges, both fixed on April 4 for the opening of the case. The collision was merely a formal one, since when the day came, Torquatus, the President *de ambitu*, postponed the case until the trial for murder was over. The trial took four days, three of which were occupied by the examination of witnesses. On the first day there was an incipient riot,

[1] Dio Cassius, xl. 55.
[2] § 95 *hoc eodem illo . . . vultu.*
[3] Ascon. *in Scaurian.* l. c.
[4] Ascon. 54 *n.*

and the court appealed to Pompey for protection, who on the next day marched his troops into the Forum; a novelty which made a profound impression. The mob now began to feel the weight of Pompey's heavy hand. Dio[1] says that, upon a recrudescence of the disorder, he ordered his men to strike the rioters with the flat of their swords. The crowd thought they were playing, and became insolent, whereupon the soldiers used their weapons in earnest, and several rioters were wounded or killed. The witnesses were then listened to in silence for two days. The proceedings finally were wound up dramatically by the evidence of Fulvia and of her mother, their hysterical grief making a deep impression upon the hearers[2]. All preparations were made for the voting on the morrow. The evidence was put under seal, and the tablets upon which the votes were to be given under ballot examined, to ensure that there should be no difference between any of them, by which it might become known which way a juror had voted. The tension of feeling was made more acute by a violent speech which Plancus delivered, after the court dissolved, to the crowd, in which he urged them to come in their thousands on the morrow, and not to let the murderer escape.

The night must have been an agonising one for Cicero, who was always a nervous speaker, and suffered from *insomnia* on occasions when he felt doubtful of his ability to do justice to his powers[3]. According to a not improbable story, Milo, fearing that he might break down, had him brought into the Forum in a closed litter, that his composure might not be affected by seeing the lines of soldiers[4]. These precautions were taken in vain. When the prosecutors had spoken, and he rose to reply, conscious that all the burden rested upon him, he was so unnerved by the sight of the glittering arms, and by the yells of the mob, which even their fear of Pompey could not stifle, that he never regained his composure, and spoke without his usual courage. Later writers magnify his failure, and speak of him as hardly able to stand, stammering, and glad to sit down after a few incoherent sentences[5]. In view of these exaggerated statements, one must remember that the speech was taken down by the shorthand writers, that it was read by Asconius, who describes the line of argument taken up in it, and by Quintilian, who quotes from it an example of a rhetorical figure well used[6]; and that it survived four centuries later in the time of the Scholiast. Still it was an undoubted failure, and the most galling

[1] Dio Cassius, xl. 53.

[2] It must be remembered that there was insanity in the family (Ac. ii. 89, Phil. iii. 16); a fact which may throw light upon the excitable disposition of Fulvia.

[3] Plut. Cic. 35, cf. Div. in Caec. 41.

[4] Plut. *ib.*, cf. Q. F. ii. 8 (10). 3.

[5] Dio Cassius, xl. 54.

[6] Quintil. ix. 2. 56.

sight for Cicero must have been the smile of Milo, as he surveyed his defender's confusion. Milo went shortly afterwards to Massilia, where, like a true Roman, he consoled himself with the pleasures of the table[1], grimly remarking, when afterwards he received the written speech, that, if the spoken one had been as good, he would have missed the excellent mullets he was then eating[2].

On the next day Milo was condemned in his absence for bribery, and then the pack of minor accusers gained their morsels under the *lex de sodaliciis* and the *lex Plotia*. After the condemnation of the chieftain, his captain Saufeius was arraigned, and gained a sensational acquittal by one vote. This may have been due to the fierce rhetoric of Caelius, who was this time associated with Cicero in the defence. As Saufeius had the blood of Clodius upon his hand, this result could not pass unchallenged, and he was brought to trial again under the provisions of the Plotian law; the result, however, on this occasion, being an acquittal by a large majority. The jurors had salved their consciences by the condemnation of Milo, and now wished to show Pompey that they were not his slaves. The tables were turned, and the incendiaries of the senate-house had to suffer. Sextus Clodius, who had led the crowd, had only five votes given for him. At this point the account of Asconius ceases, so that our knowledge of the details becomes meagre and untrustworthy. That a large number of dangerous characters were got rid of we know. Cicero and Hortensius showed their inexhaustible fertility by pleading day after day in cases closely resembling each other, without ever losing their freshness[3]. One of the friends, for whom Cicero spoke, was his old client Sestius, who was acquitted[4]. A notable conviction was that of Hypsaeus, Pompey's nominee for the consulship, shortly afterwards followed by that of Pompeius Rufus, and Plancus Bursa, the two tribunes[5]. Hypsaeus was surrendered by Pompey, who is said to have made an incredibly brutal answer to him, when his aid was invoked[6]. Pompeius Rufus also was given up, but for Plancus, Pompey used all his influence, and even broke his own law by sending to the jurors a *laudatio* on his behalf. Cato protested against this infraction of the law, whereupon Plancus ventured to challenge him, and was presently condemned for daring to object to the incorruptible one. Cicero was overjoyed at the result.

[1] Cf. Juv. i. 49.

[2] Dio Cassius, xl. 54.

[3] Brut. 324 ad causas simillimas inter se, vel potius easdem, novi veniebamus cotidie.

[4] Att. xiii. 49. 1.

[5] For the date of their trial see pp. 129 sqq.

[6] Plut. Cic. 55 διαφθείρειν τὸ δεῖπνον αὐτοῦ, ἄλλο δὲ μηδὲν περαίνειν—truly a '*minus liberale responsum*'; cf. Att. iii. 15. 4.

'I hated Bursa much worse than Clodius himself. I had attacked Clodius, whereas I defended him. Clodius had a great object in view . . . and acted not of his own accord, but at the instigation of those whose prosperity was incompatible with mine. This ape singled me out for his invectives, just to amuse himself, and had convinced some of my ill-wishers that he would always be ready to fly at me[1].' Never were seen such independent jurors. At last even Pompey's patience gave way, when an accuser ventured to prosecute Metellus Scipio. According to a late writer the sole-consul himself went into mourning[2]. At any rate the prosecutor felt that he was flying at too high game and desisted.

A dictator at Rome only held office for six months. Pompey was not, indeed, dictator in name, but, with that respect for constitutional forms which characterised him, limited the period of his extraordinary power by coopting on Aug. 1 a colleague, his father-in-law, Metellus Scipio. It is obvious that by this date his work must have been completed, otherwise he would not have surrendered the plenary power which had been entrusted to him. His proceedings have been sharply criticised by some modern writers. Mommsen says disparagingly of him that 'he pushed the transparent fiction of fairness so far, that, instead of putting safe-instruments into the special commission for the investigation of the late tumult, he chose the most respectable men of all parties, including Cato[3].' So, again, he says that it was 'a specimen of Pompey's folly' that wishing to appear impartial, he did not prevent the condemnation of his friends. Quite apart from the question of morals, which no doubt largely influenced Pompey, who was in his way a virtuous and honest man, it may be argued that it was good policy for him to act as he did. If he had made Hypsaeus, Rufus, and Plancus presidents of his courts, and packed the juries with his own creatures, he would have shocked the moral sense of the community, and have made impossible that *rapprochement* between himself and the *optimates*, which was now taking place. Further, in spite of his uprightness, he was a cold man, and it never cost him a pang to surrender anyone who had compromised himself too deeply in his service. It was by the sacrifice of such men as Hypsaeus and Rufus that he was able to convince the world of his sincerity, and to figure as the constitutional regenerator of his country.

After the trials were over, the eloquence which had been 'gagged' in the Forum, broke forth in the form of pamphlets. M. Brutus wrote a speech as a rhetorical exercise, 'practising with the foils,' as Quintilian

[1] Fam. vii. 2. 3. [2] Appian, B. C. ii. 24.
[3] iv. 326.

puts it, by the way of preparation for actual encounter in the courts[1]. In this he took up the position that the murder of Clodius, which he did not deny, was justified by the good results thereby accruing to the public weal; a bold theory, which would enable him to air a number of Stoical paradoxes. Cicero, not to be outdone, composed the oration which we possess, in which he developed the same line of defence as that which he had previously argued in court, that Clodius was the aggressor. We do not know the exact time of the publication, but without doubt it was after Aug. 1, and before May in the following year, when he went to Cilicia[2].

Milo's property was put up to auction after his departure, and purchased by a syndicate of friends, who wished to realise it as far as possible in his interest[3]. His debts amounted to the enormous sum of 70,000,000 sesterces; a record figure in the annals of Roman bankruptcy, upon which the syndicate undertook to pay a small fraction. Among those who took part in this transaction was Cicero himself, or more probably Terentia, represented by her freedman Philotimus. There is evidence from the letters of Cicero, couched in enigmatical and mysterious terms, that Philotimus 'cooked his accounts,' and that Milo expressed great dissatisfaction[4]. The suspicion that Cicero made money out of his friend is a monstrous one, but a modern writer has not hesitated to bring this odious charge against him[5]. It is, however, wholly alien to his nature, and his correspondence shows that he was wounded to the quick by the knavery of Philotimus. At the same time his position was very delicate, since Terentia was probably compromised in the transaction. It was not the first trouble in which he had been entangled by his domineering and grasping wife[6].

In the civil war Milo originally took no part. He was estranged from Pompey, while Caesar had always been his adversary. The latter, how-

[1] Quintil. x. 5. 20 decretoriis exerceatur, ut fecisse Brutum diximus pro Milone.

[2] Dio, xl. 54, says vaguely *χρόνῳ ποθ' ὕστερον καὶ κατὰ σχολὴν ἀναθαρσήσας ἔγραψε*. He refers to the trial, and quotes words from this speech in the *de optimo genere Oratorum*, a tract assigned to this year. There are striking similarities of thought and language in passages of the *de Legibus*, which also belongs to this period.

[3] This was suggested by C Duronius, a friend of Milo. It was hoped by a friendly liquidation to reserve to Milo a number of slaves, whom he had taken with him to Massilia, and to safeguard the interests of Fausta, who had advanced money to him from her estate: Att. v. 8. 2, 10. 4.

[4] Att. vi. 4. 3 *μυστικώτερον* ad te scribam, tu sagacius odorabere: *τῆς δάμαρτός μου ὁ ἀπελεύθερος – οἶσθα ὃν λέγω—ἔδοξέ μοι πρώην, ἐξ ὧν ἀλογευόμενος παρεφθέγγετο, πεφυρακέναι τὰς ψήφους ἐκ τῆς ἀνῆς τῶν ὑπαρχόντων τοῦ Κροτωνιάτου τυραννοκτόνου*: ib. 5. 1–3.

[5] Drumann, i. 49.

[6] Plut. Cic. 20.

ever, took pains to keep him quiet by dilating upon the violence of the measures by which he had been driven into exile[1]: while it was generally reported by his confidants that one of the first measures he intended to take was to restore all who had been exiled under the laws of Pompey[2]. Such expectations may have induced Milo to leave Massilia before its siege. At any rate we hear nothing of any share taken by him in its obstinate defence. The conqueror, however, was too wise to recall so dangerous a man, and Milo was left alone, or almost alone, in exile, frowned on alike by both parties. His return to Italy, to take part in the abortive insurrection of Caelius, is highly characteristic of the man.

The light-hearted Caelius, who had become a Caesarian, not because he liked his cause, but because he wished to be on the same side with Curio, became, after the death of his friend, at once a Pompeian and an anarchist. He chose the eve of Pharsalus to bring forward as praetor measures of a fantastic character, conceived in the spirit of his old friend Catiline, providing a seven years' *moratorium*, and remitting a year's rent to all tenants of house-property. When the consul broke his curule chair and the senate suspended him, his reason seems to have suffered from the indignities which he had received, and he attempted to raise Italy against Caesar. The enterprise was a mad one, but he wrote to Milo, and Milo promptly obeyed the call, bringing with him the remnant of his gladiators. This strangely-assorted pair, the bankrupt politician and the grim exile, met, and then started upon their hopeless task. The end came quickly. An attempt on Capua failed, and Milo went on in advance to raise a force of bandits from the slave-shepherds of Southern Italy. He perished at Compsa, slain by a stone cast from the wall, while Caelius, after making his way to Thurii, was there killed by some Gallic and Spanish cavalry, whom he was endeavouring to seduce from their allegiance to Caesar[3].

III. The Sources of the Text.

If we consider the instant recognition which the *Miloniana* obtained as a masterpiece of oratorical composition, we cannot but be struck by the paucity of MSS. which possess any value for the settlement of its text. The mediaeval copyists were extremely capricious in their choice of works for transcription, and it frequently happens that we have a wealth of MSS. containing writings of inferior interest, while others of great merit depend

[1] Att. ix. 14. 2. [2] *Ib.* x. 4. 2.

[3] I have not thought it necessary here to enter into the curious discrepancies as to the place and circumstances of Milo's death. The theory put forward by Kräner in his note on Bell. Civ. iii. 22 seems to offer the best solution of the difficulties.

upon slender evidence. That the *pro Milone* was not much read in the middle ages is clear from a glance at the ancient catalogues preserved to us. It only occurs three times in the lists collected by Manitius, *sc.* in the catalogues of Lorsch and Cluny.

Lorsch [cent. ix]. 445. Metrum Tullii Ciceronis (*sc.* Aratea), orationes pro Cluentio, pro Milone, in Pisonem, pro Cornelio[1].

Cluny [cent. xii]. 412. Defensio Marci Tullii pro Milone. *ib.* 496. Cicero pro Milone, et pro Avito, et pro Murena, et pro quibusdam aliis[2].

The fact of its existence at Lorsch in the ninth century is of some importance, in view of a not improbable conjecture which has been made, connecting one of our MSS. with that great seat of mediaeval erudition[3].

The MSS. which we now possess are easily classified. They are—

(A) P, THE PALIMPSESTUS TAURINENSIS, of which only a few fragments remain.

(B) THE GERMAN MSS., three in number, sc. H [*Harleianus* 2682], T [*Tegernseensis*], and *Erfurtensis* [E]. To these may be added W, the lost *Werdensis*.

(C) THE MULTITUDE OF INFERIOR MSS., chiefly of Italian origin.

Of these the last were exclusively used by scholars until 1569, when F. Fabricius published a selection of readings from the *Werdensis*. Since then their inferiority, as compared with members of the German family, has been increasingly recognised. Baiter says tersely, '*interpolatis codicibus Italicis nulla fides haberi potest*'; a judgment which will commend itself to every inquirer. I should not linger over them, but for the singular occurrence that one very late MS., the Salisburgensis [*s*] is quoted as a serious authority, without, so far as I am aware, any sufficient inquiry having been made into its pedigree. Thus Richter, a very acute critic, pays great regard to *s*, and considers the readings of H due to conjecture, *unless supported by it*, a view ingeniously perverse. Also in my Anecdoton I spoke of it as a late descendant of H, a judgment which I now retract.

In order to realise the position of *s*, it is necessary to discuss the affinities of the *deteriores*. As the result is an important one, I may be pardoned for going into some detail. The best known members of this very large family are—

The dett. (i) B. [Barberinus, ix. 11] xiii. cent., used by Garatoni, and recently by Nohl[4].

[1] M. Manitius, Philologisches aus alten Bibliotheks-Katalogen, Rhein. Mus. xxvii. suppl. B. p. 18.

[2] *Ib.* p. 15.

[3] See p. xlvii.

[4] A full collation of this MS. would be of interest, as it must be one of the earliest *dett.* The select readings given in Nohl's notes do not, however, show any deviations from the vulgar recension.

(ii) Lagg., the MSS. collated by the learned Jesuit, Lagomarsini, 'of which only 43, and the second hand in 6, 13, 18, possess any value[1].'

(iii) Oxx., the Oxford MSS., of which a misleading and imperfect collation was published in the large Clarendon Press edition of 1783. I have myself recollated for this speech those of them which appeared to throw light upon the history of the text.

To these may be added the British Museum MSS., Harl. 2681, 4852, 5428, 16980; Ar. 236; Burn. 155, 157, 159, which, upon examination, I found to belong to the worst class of *deteriores*. Also the Vatican MSS., Ottoboni, 1453, 1463, 1599, 1710, 1991; Vat. 1742, 1743, 1744, 1745, 1746, 6837; Vat. Urb. 320; Regin. 1825; Reg. Suec. 1486; test-passages in which were examined by my friends, Mr. S. G. Owen, of Christ Church, and Mr. T. W. Allen, of Queen's College. Some of these doubtless figure among the Lagg.

I add some marks by which the *dett.* may be recognised:—

§ 36. *iudiciumne timui*: the early *dett.* omit these words, the later ones insert *intentavit*, or *Milo attulit intentavit.*

§ 60. '*heus, tu, Rufio,' verbi causa*: variously corrupted, e. g. *heus ubi responsio, ubi causa*, or *ubi Casca.*

§ 78. *nihil . . . P. Clodio vivo*: a large omission, *ex homoioteleuto*, occurs.

Other passages are: § 25. Collinam: *coloniam.* § 29. qui animo fideli in dominum et praesenti fuerunt: *qui animo fid. in dominum erant et praesentes fuerunt.* § 36. in causa aut mala aut mea, non et praeclarissima et vestra iudicium: *in c. aut vestra mala aut mea nec praecl. et iudicium.* § 53. *om.* edito. § 83. vim esse ducit: variously corrupted. § 86. *om.* decoris. § 91. ad Castoris: *ac rastris.*

The *dett.* fall into two classes: (*a*) the older ones, forming the raw material, out of which the fifteenth-century recension was constructed, and (*b*) the later MSS., which are practically editions, and embody the results gained by the labours of successive scholars. In these we can trace the operation of three factors, (i) conjecture pure and simple, (ii) the development of corruptions found in the older MSS., and (iii) *the infiltration of superior readings, introduced from the German family.* It is to the last factor that *s* owes its position.

The genesis of *s* will be best understood if it is compared with certain Oxford MSS. These are—

(i) Auct. Rawl. G. 138 [σ], fourteenth century, a good specimen of the early *dett.*, full of naked corruptions, not yet veiled by the Italian scholars.

(ii) Coll. Nov. ccxlix [χ], fifteenth century, a carefully emended MS., closely connected with *s*.

[1] Peyron, *de lacunis Or. p. Mil.* p. 28.

(iii) Digby, 19 [*h*], fifteenth century, thoroughly vulgar in basis, but highly corrected, and containing in the margin a number of additions in a contemporary hand, which can only have been taken from a German MS.

The affinity of *s* to σ may be shown by some *proprii errores*. I quote a few from the early part of the speech:—

§ 1. cum: *cum consul* σ, *cum ϙos s*. § 2. quidem: *om. σs sol.* § 3. exitum iudici: *om.* exitum σ, *sup. lin.* after iud. *s*. § 12. decernere: *re decernere* σ, in *s re* is given *sup. lin.* by the first hand. § 13. umquam: *om.* σ, *sup. lin. s*. § 25. esse *om.* σ, *sup. lin. s*. § 34. augebatur: *frangebatur σs sol.*

It is, however, with χ that *s* is most closely connected. I note the following; where no comment is made the reading italicised is common to the two MSS:—

§ 13. senatui *om.*, but added *sup. lin.* after enim, *ib.* umquam *sup. lin.* § 21. legendis: *eligendis*. § 22. te *before* praeesse. § 28. et vestimenta: et *om.* χ, *sup. lin. s*. § 31. putasset: *sup. lin.* § 32. iam *om.* χ, *sup. lin. s*. § 33. tribunatus *om.* χ, *add. s in mg.* ib. unum esse: *om.* unum, *add.* esse *sup. lin.* § 35. homine: *nomine*. § 41. vos et omnes: *om.* et. § 59. propius quam tum: *proprius quantum*. § 63. eum (before tanti): *om.* χ, *sup. lin. s*. § 72. eum . . . censuit *om.* § 77. a cervicibus vestris: *om.* χ, *in mg. s*. § 84. plane: *sane*. § 93. intersum: *assum*. § 100. ego meum: *et meum*.

The above are sufficient proofs of consanguinity. That *s* contains a later form of the recension than χ is apparent, since in it obvious corruptions disappear, e.g. § 46. Interamnae: *inter arma* χ, *interamna s*.

The basis of *s* being vulgar[1], or of the σ type, while in species it resembles χ, it is differentiated from other MSS. of the same family by the fact that it contains additions and variants characteristic of the *meliores*. That these have come in *ab extra*, and have been grafted upon the vulgar stock, would naturally be surmised, and the conjecture is confirmed when we find in the margin of the Oxford fifteenth-century *h* precisely the same readings entered by a contemporary hand. Some of the corrections are common to HTE, e.g. § 60. *heus tu*, &c.; § 86. *add.* decoris; § 91. *ad Castoris*: that, however, they were drawn from H, and not from TE, is clear from the following characteristic readings of H, found also in the margin of *h* and the text of *s*.

[1] To avoid misconception, I add that the purification of *s* from the faults of the *dett.* is only skin deep. Thus in § 36 it has the usual dislocation. Other characteristic marks are § 12. cum bonis: *cum multis*. § 22. insidias: *insanias*. § 25. *coloniam*. § 28. add. *vulgus* before *magno*. § 29. re vera: *ita esse*. § 32. *sperasset*. § 33. nefarie: *necessarie*. § 47. *videlicet me*. § 51. ut: *nisi*. § 53. *om.* edito. § 68. *insedisset*. § 82. *contribuenda*.

§ 50. *add.* noctu occidisset, insidioso et pleno latronum in loco occidisset. § 59. incesti. § 91. ab inferis. § 99. saltem. In § 78, where the *lacuna*, common to all the *dett.*, viz. *nihil horum . . . Clodio vivo*, has been filled up, *hs* give *igitur est* with H, as against *est igitur* TE. The natural conclusion to draw from these facts is that in the fifteenth century there was in circulation a collection of variants, taken from Transalpine sources, which gradually became embodied in the Italian MSS., *s* being the most highly corrected member of the family. It follows—

(i) That *s* adds nothing to the authority of H, where they agree *sol.*

(ii) That when *s* or other late MSS., being thoroughly vulgar in type, contain a plausible reading, not found in the early *dett.*, and equally absent from the German MSS., that reading must be looked upon with great suspicion, as probably due to Italian conjecture, e.g. § 63. *percito*, *h* in mg., *s* in text. § 69. *immutatis* add. χ, *immutatus s*.

(iii) That the use of *s* and the other *dett.* is practically *nil*, except in those rare cases where they have preserved an original reading, while the *meliores* are corrupt.

I am conscious that they might be generally disregarded, but as it seemed advisable to put their readings on record, I have given the more important variants of $\sigma\chi s$, marking their agreement by the symbol δ[1].

I add a few words concerning three other Oxford MSS.:—

(i) Coll. Linc. xxxix, termed *s* in the Clarendon Press edition. To avoid confusion I call it λ. This is a very correct MS., and interesting from its close resemblance to the *editio princeps* of Sweynheym and Pannartz, Rome, 1471, which I term Σ. $\Sigma\lambda$ agree in the order of the speeches, and in the *Miloniana* are extraordinarily alike. I quote the following—§ 1. cum: *cum contra.* § 5. duobus: *de vobis.* § 14. veteribus: *tuentibus.* § 64. frenorum: add. *ispurorum* λ, *sparorum* Σ. § 70. iudicia: *iudiciis.* The MS. was not copied from the printed book, since it contains a number of errors corrected in it, e.g. § 3. praeirent Σ: *praedicerent* λ. § 29. caedere Σ: *caedem* λ. § 45. stata Σ: *statuta* λ. The most striking variant of λ is § 67 *tutetur* for *custodit*, where it is not followed by Σ. Oxford MSS.

(ii) Coll. Nov. cccii, termed χ^3 by the Oxford collators[2]. This is in a hand which appears to be Flemish, and contains two notable

[1] I do not intend by this symbol to cast any slur upon $\sigma\chi s$ as compared with the mass of the *dett.*, for which it would be difficult to find any appropriate expression.

[2] This MS. is described, Praef. p. 16, where it is said not to have been collated. Its readings are, however, given in the *variae lectiones*, in which it is called χ^3. This name is unfortunate, since χ^3 is also employed to signify a duplicate copy of Catil. ii. and pro Rege Deiot. in χ (Coll. Nov. ccxlix, see p. xxxiii).

variants: sc. in § 53 for *praedicatam* it has in the margin al. *praedictam*, a conjecture afterwards made by Gruter, and in § 64, over an erasure, gives *framearum*, afterwards read by Lambinus. Both readings are due to a fifteenth-century hand.

(iii) Auct. Rawl. G. 137, termed 8 by the collators. I call it ω. This is a very late MS., probably of the sixteenth century. Though vulgar in basis, it contains several interesting readings, doubtless due to conjecture, e.g. § 17. interfectus *est*, so Madvig, § 26. *Marco* Favonio, so Krause. § 43 *om.* audaciae, so Ferrarius and Garatoni. § 92. *in* infimi, so recc. edd. § 99. *eripieris*, so Lambinus *in mg.*

The exclusion of *s* from the list of authoritative MSS. much simplifies the problem, since we are now left with the four German MSS., and the fragments of P, the relationship of which I proceed to discuss. To begin with W, the Werdensis, now lost.

W or Werdensis.

Our information concerning this comes chiefly from F. Fabricius, who in 1569 published an edition of the *pro Milone* and the *de Provinciis Consularibus*. The book is a rare one. The copy, which I myself consulted in the library at Heidelberg, once belonged to Graevius. Fabricius says that he had himself previously collated the MS. in Saxony, and sent some readings to Lambinus, for the use of that scholar in his second edition. Owing, however, to the delay in the publication of this, he added some notable readings to the above-mentioned edition, which was then being printed at Düsseldorf. His work is dedicated to the owner of the MS. D. Paulus Bruin, his readings being specimens, *unde tui beneficii magnitudo, tamquam ex ungue leo, cognosceretur*. Bruin was at this time a pastor at Werden, near Düsseldorf, and had brought the MS. with him from Saxony. Lambinus was highly impressed by these readings, and in the notes to his posthumous edition frequently quotes this *Saxonicus perantiquus*, and says that all the emendations peculiar to this edition are taken from it. His opinion of its merits was not unnatural, since this was the first occasion upon which a member of the *meliores* became accessible to scholars[1]. Unfortunately, however, we cannot be sure to what variants he refers, unless he expressly mentions the MS. in his notes, on account of the reckless manner in which such symbols as *v. c.* [vetus codex], or L. [Lambinus] are used by the *sciolus*, who, after the death of this great scholar, mangled his work under the pretence of editing it.

The MS. was also used by Gulielmius, who does not, however, quote

[1] In my Anecdoton I thought that Lambinus had obtained readings taken directly from H. I now think it more probable that these came from some such MS. as *h* or *s*, into which they had entered in the manner explained above.

largely from it, generally citing it to support H, to which he attached most weight, or E, the three MSS. together forming his *praeclara triga*.

On putting together the evidence furnished by these three scholars, I was struck by the close agreement of W with T. This may be seen by the following cases, in all of which WT agree against HE. Where *sol.* is added, the reading is not quoted from any other source. The letters F. L. and G. refer to Fabricius, Lambinus, and Gulielmius respectively.

(1) Proprii errores of WT: § 2. tempori: *temporibus* W^{F}. § 33. librarium W^{F}. [one Lag.]

(2) Spellings: § 16. *domui*, v. c. L. § 39. *plebei*, v. c. L. [*sol.*] § 51. *devortit* W^{F}.

(3) Notable variants: § 15. quid vos in iudicando spectare oporteret: *om.* in *v. c.* L. [one Lag.] § 31. quod multis in causis saepe: *iam* before *saepe* add *v. c.* L. [*sol.*] § 76. vestra tecta, vestras pecunias. Pecunias dico: *vestras pecunias, vestra tecta dico* W^{F}. [*sol.*], a strange inversion. § 78. spero multa vos liberosque vestros in rep. bona esse visuros: 'Werd. repetit in rep. *multa* bona' G. [*sol.*] § 90. *cum mortuus uno, v. c.* L.

The differences are trivial, e. g. § 85. *Latiari*: 'Werdensis *Latiaret* ut videatur scriptum primitus *Latiarei*' G. In T we find *latia rei*. So § 36. *non et praeclar.*: 'nostri libri sic habent' F. *Ei* is given for *et* in T. The same corruption was probably in W; an early scholar would not notice so small a point, especially when for the first time remedying a serious dislocation of the text. On § 45 Lambinus ascribes *statuta* for *stata* to W [*stata* T with HE]. This is probably an error, as so good a MS. is not likely to have had this gloss, found only in late *dett.* An important case is § 79. *evocare*: 'v. c. *evocare*, in altero MS. *avocare*' F. Here W breaks away from T, which has *avocare*, showing that T misrepresents the archetype.

The only other speech for which W is quoted is the de Imp. Cn. Pompei. Here the materials are scanty, since we depend upon Gulielmius alone, and the readings he gives are also found in HE, as well as in T. Also T is mutilated, containing only §§ 47–71. An interesting case is § 50, where Gulielmius falsely ascribes to H the variant *adigendus* for *deligendus*. As this, however, occurs in T, there can be no doubt that Gulielmius found it in W, and ascribed it to the wrong MS.

The evidence given above tends to show that W was a *gemellus* of T. It would remove complexity, if it could be identified with T; but (1) the description of it given by Fabricius implies that it contained the whole of the de Imp. Cn. Pompei, whereas T is fragmentary, and (2) T also contains the Philippics, pro Sulla, pro Plancio, pro Caecina and pro Marcello

§§ 1–15, and it is hardly credible that Gulielmius would not have referred to it for any of these speeches.

If W then may be set aside, not merely because its tradition is defective, but also because its loss is supplied by T, we are left with HTE as the three MSS. of cardinal importance for the constitution of the text[1]. I omit for the moment the fragments of P. What is the relative degree of credence to be attached to them? Modern critics decide unanimously, and with reason, against T. I would refer to a valuable paper by Nohl in Hermes xxi. 195, and the preface to his edition of 1888. He shows that it manifests an inclination to the vulgar family, and styles it the *parens deteriorum*. This phrase must not, however, be taken too literally, since H and E also furnish material for the formation of the inferior text. I quote the following as a sample:—

T. [Tegernseensis.]

§ 5. equidem: *et quidem* Hδ. § 7. disputant: *disputant. obiciunt* H, *obiciunt* σ. § 2. et iustissimi: *illustrissimi* Eδ (*illustrissimique* T). § 64. malleolorum: *malleorum* Eδ.

The mediaeval copyist was fatally attracted by an error wherever found; the result being that the unemended *dett.* form a *florilegium* of corruptions. That T, however, was the basis of the vulgar text will be apparent from the critical notes. I give here three instances: § 29. *qui animo fideli in dominum et praesenti fuerunt*, T inserts *erant* before *et*; hence the corruption found in all the *dett.* § 89. *oppressisset*, om T. § 102. *O me infelicem*, om. *me*, in each case being followed by all the *dett.*

E. [Erfurtensis.]

The result of this analysis is to leave us with H and E, between which the battle for supremacy has to be fought out. The difficulties which exist chiefly arise from the fact that, although the good readings for which E has been preferred to T are, with a few doubtful exceptions, also found in H, the latter MS. has a number of variants peculiar to itself, some of which are obviously right, while others are so striking that, if not correct, they must be due to wilful alteration. Gulielmius, who used the three MSS. HWE, preferred H, an opinion afterwards held by Garatoni and Madvig, who based their judgment upon the scanty collation then in existence. Baiter, on the other hand, decided in favour of E, and is followed by recent editors, who vie with each other in their worship of this MS. Thus C. F. W. Müller follows it even in minute points of spelling, e.g. § 16 he prints *illata*, and a few lines lower *inlata* with it. Nohl, in his new edition of Richter-Eberhard, writing after the appearance of my Anecdoton, though he adopts several readings from H, and notably the most important of all, sc. § 46. *om.* cuius . . . Romae, declares

[1] This also applies to the de Imp. Cn. Pompei.

himself still of Baiter's opinion[1]. This opinion may therefore be considered to hold the field.

The conclusion at which I have myself arrived is widely different. It is that E is a 'contaminated' MS., being a mixture of two recensions. It has been copied from the same source as T, but corrected by superscriptions and additions drawn from H or a similar MS.

As the question is one of vital importance for the criticism of the speech, I may be pardoned for discussing it at length. The *facsimile* of the *Miloniana*, as given in E, published by Wunder, is an accessible work, and renders the examination into the character of the MS. a simple one. On going through this, and marking agreements of E with T and with H, and also peculiarities of its own, I found that it was infinitely nearer in its affinities to T than to H. The numerical results are much as follows. Agreements with T against H 224, with H against T 81, peculiarities 70. I do not of course guarantee the absolute accuracy of the figures, but the proportions may be taken as correct. The sections for which H is deficient I exclude from the calculation. Similar results may be arrived at from other points of view. Thus on going through the variants from Baiter's text given in my Anecdoton, and excluding trivial points of spelling, I find that H agrees with E against T 48 times, with T against E 8 times, and has 403 peculiarities, many of which are of course mere slips of a trivial kind. Again, taking Wunder's variants from the text of Ernesti, it appears that E agrees with T against H 76 times, with H against T 38 times, and has 76 peculiarities. All these methods show that E is much more closely related to T than to H, agreeing with the former constantly, and with the latter only occasionally.

In estimating the affinities of MSS. it is necessary to bear in mind the difference between those readings which may have been introduced by a corrector, and those which testify to 'consanguinity.' Of the latter the most important are *proprii errores*, i.e. flaws due to a slip of the pen on the part of the copyist who transcribed the common archetype.

I instance the following, to which I desire to call special attention. A reading italicised without comment is common to TE:—

[1] I wish to treat with all respect so able a scholar and so courteous a disputant as Dr. Nohl. He will, however, forgive me for pointing out that in the *krit. Anhang* to his edition of 1892, he has taken for granted the correctness of the ordinary recension, i.e. that based upon E, and then tabulated the variants of H as omissions, additions, alterations, &c. This point, however, must first be proved, since until this is done such remarks rest upon a *petitio principii*.

§ 3. neque: *nec quae.* § 12. nonnulla: *non ulla.* § 27. Roma: *Romam.* § 47. ut Q.: *utque.* § 49. in noctem: *innocentem.* § 61. cui: *cui*ᵉ (i.e. *cuius*). § 65. servos: *servus.* § 68. haud: *aut.* § 69. qui quam: *quicquam.* § 72. Maelium: *mellum.* § 73. populus Romanus: *populus.* § 74. hunc P. Varium: *hunc c. p. Varium.* § 79. vultu: *vultum* T. *vult*ᵘ E. § 81. id fateri: *is fateri.* § 85. finesque: *fines quae.* § 91. cadaveri curia: *cadaver in curia.* § 97. brevitatem: *brevitate.* § 98. celebramur: *celebremur.* § 102. quo: *quod.*

To these should doubtless be added § 36. non et: *non ei* (where H is deficient), and § 69. communium: *in communium* [see note *ad loc.*].

On the other hand I have only noted one agreement of HT in what looks like a *proprius error,* sc. § 16. ne necessarium: *om.* ne, while those common to HE are limited in number, e.g. § 78. ne cogitari: *nec cogitari.* It would not be to the point to quote here such readings as e.g. § 96. *haec arma,* since these, whether right or wrong, would easily be introduced from one MS. into another by a corrector.

The following variants in TE are instructive:—

§ 38. agnovisset: *om.* T; *adcognovisset* E. In the copy from which E was taken *ad cognovisset* must have been written: *cognovisset* being a conjecture to fill up a lacuna in the archetype of TE, while *ad-* was inserted *sup. lin.* by the corrector.

§ 39. concurreret: *cucurrerent* T; *ccurrerent* E. Here E preserves a slip in the archetype, sc. *ccurr.* for *ccur.*, which is further corrupted in T.

§ 77. adfecisse et: *adfecisse* T; *affecisset* E. The latter reading must have been in the archetype: T emends to obtain a construction.

§ 78. spero multa vos liberosque vestros in re p. bona: before *bona* T inserts *multa,* and E *vestra,* both filling up by conjecture a vacant space in the archetype.

§ 84. est, est: *est* T, omitting a word: *est igitur* E, replacing it by conjecture.

Aided by these instances I expel without hesitation in § 42. *falsam* placed in T before, and in E after *fictam,* as a gloss from the margin of the archetype. The common origin of TE also explains in § 49 the omission of *noctu . . . credidisset,* as was seen by Richter.

The points in which E differs from T are:—

(i) It contains passages and words omitted by the older MS. The chief of these are, § 10. *hausimus.* §§ 12, 13. *amentiam . . . pu.* § 21. *amicos . . . legendis.* § 28. *quod numquam fere.* § 31. *de hoc . . . est.* § 45. *manendi.* § 89. *oppressisset.* § 104. *non debitas.* § 105. *et fortissimum.*

In some of these T probably misrepresents the archetype: in others, the copy from which E was taken was doubtless corrected by marginal additions taken from a MS. similar to H.

(ii) In the collocation of words. In twenty-eight cases it agrees with H, sc. §§ 6, 7, 8, 11, 16, 39, 42 *bis*, 43, 54 *bis*, 59, 64, 68, 69, 74, 78, 79, 82, 87, 92, 94, 95, 96, 99, 100, 101 *bis*. These instances tend to show that among the vices of T is a tendency to alter the order. In some cases it looks as if an omitted word had been added in the margin of the archetype, and inserted in the wrong place by T, e. g. § 6. vitam ab inimicorum audacia telisque HE: *ab inimicorum audacia telisque vitam* T. § 82. Quae mulier interficere sceleratum ac perniciosum civem HE, *quae mul. scel. ac pernic. civ. interficere* T. The superior correctness of E in the collocation of words is of some importance in §§ 18–37, where H is defective.

(iii) In readings characteristic of H as opposed to T. These are, § 2. collocata. § 3. verum, *ib.* prae. § 6. sin. § 10. verum. § 12. aut summum. § 40. tenebras. § 48. *add.* Cyri. § 59. *om.* de servo. § 65. probari. § 69. vides, *ib.* amicitiis, *ib.* metu, *ib.* salutaribus. § 76. immitteret. § 80. immortalitatis. § 96. haec arma. These were doubtless added by a corrector to the archetype of E from H or a similar MS. It will be noticed that they are somewhat local in their distribution, occurring chiefly in a few sections.

(iv) The original contributions of E are neither numerous nor important. They consist of—

(*a*) Changes in the order of words [§§ 6, 46, 52, 55, 65, 67, 79].

(*b*) Blunders, e. g. § 5. *exercitatum*. § 13. senatus: *sen. consultum*. § 37. *haec, haec*. § 63. cederet: *secederet*. § 64. popae: *pompaeum*. § 68. praeturae: *praecii ne*. § 76. civitatis: *civilitatis*. § 88. illum: *per illum*. § 91. et sunt: *sed sunt*. § 104. quem: *quem nos*.

(*c*) Plausible variants: the chief are, § 14. inessent. § 39. fecit. § 53. pugnandum. § 60. abrepti. § 76. *om.* iam. § 85. Latiaris. § 91. *om.* et *before* auctor. § 80. cum conabar.

(*d*) Glosses and interpolations, e. g. § 7. ab improbis: *saepe ab improbis*. § 15. at paret: *at apparet*. § 39. illius: *illius Clodi*. § 48. antevertit: *antevenit*. § 59 proxime deos: *proxime in deos*. § 100. dimicatio capitis: *diminutio capitis*, an instructive instance as showing that the corrector possessed some knowledge. § 101. exsilium: *sed exsilium*.

E then is a contaminated MS., taken from the archetype of the T group, and corrected from the H family. Its chief importance is that it throws light upon the archetype of T, the two MSS. serving to check each other. It cannot, however, be said that HE are more valuable than H *sol.*, or TE than T.

The result of this analysis is strictly in accordance with the general character of E, and will surprise no scholar who has studied its readings in works for which we have superior MSS. evidence, e. g. in the Cato Maior, or haelius, where the contaminated character of its recension is notorious[1]. The position ascribed to it above is analogous to that which it occupies, e. g. in the pro Rege Deiotaro, where it represents a cross between the Ambrosianus and the Gudianus, or between the two recensions in H[2].

Further, that E is in some places directly dependent upon H, the older MS., has already been proved. Thus the Verrine excerpts found in both MSS. were copied into E, or an ancestor of E, from H. This is indisputable as a large omission in E occupies exactly one line in H[3]. Also, in these all the alterations of the second hand are followed by E. Again, both MSS. give a curious mediaeval Introduction to the pro Milone. This in H is out of place, being put before the Verrine excerpts, which follow without any mark of separation. In E it is given in the margin at the beginning of the pro Milone, and the alterations of the second hand in H reproduced. Other points of contact are in the fourth speech against Catiline, where the superscriptions in E are taken from H, and in the speeches before Caesar, where they come from the duplicate, or inferior recension contained in H[4]. In view of these ascertained facts, the theory that the ancestor of E has in this speech been corrected from H cannot be called improbable.

We are thus left with the two eleventh-century MSS. H and T, the latter representing the *deterior* and the former the *melior familia*. Is it possible to further simplify the problem by referring them to a common source? If this can be done the critic will be able to work more boldly in the revision of the text than if they are independent, since in the latter case the likelihood of a corruption having occupied both recensions has always to be considered. The difference between the two MSS. is certainly very great, as the figures already given show. Also H has a large lacuna from §§ 18–37 peculiar to itself[5]. The fact that the same corruptions are often found in both MSS. does not prove much, since it cannot be doubted that the process of correcting and with it of corrupting MSS.

[1] P. Schwenke, Philol. 1886, Suppl. Bd. v. 3; C. F. W. Müller, Adnot. Crit. iv. 3. p. 1.

[2] Anecdot. p. xxi. sq.

[3] Journal of Philology, xviii. 35.

[4] Anecdot. pp. xxvii. and xv.

[5] It was doubtless owing to the existence of this lacuna in H that T was preferred by copyists.

from each other, went on from a very early date[1]. On the other hand both MSS. have a lacuna in § 102, and I suspect that in § 69 both insert a word by conjecture [see note *ad loc.*]. In § 42 the variants point to a dislocation of the text in both families. A *proprius error* which is undoubtedly significant, occurs in § 52, where for *Roma exiturum* both MSS. give *Romam exit.*[2]. Minor cases are § 56. iis: *his*. § 78. arbitretur: *arbitraretur*. § 67. audire: *exaudire*. The list would be added to, if some emendations proposed in this edition are accepted. I do not here mention such cases as § 52. *praedicatam*; § 78. *possessiones*; § 88. *devinctum*, since these are capable of defence: while *vivos*, § 79, is probably an original spelling. On the whole it appears to be the safest conclusion that H and T are not of the same stock, though it would be untrue to assert that the strains had always been kept apart.

P. [palimpsestus Taurinensis.]

I now come to a somewhat thorny question, sc. the relation of our MSS. to the fragments of P, the *palimpsestus Taurinensis*. This does not agree exclusively with either family. Thus it gives with H, § 72. abrogavit: *abrogabit* E, *abrogabat* T. § 73. materiem: *materiam* TE. § 75. cessissent: *cessisset* TE. § 86. a iudicibus: *om.* a TE. § 88. potentiam suam esse: *pot. suam esse potentiam* TE. § 92. ipsos: *ipsi* TE. § 93. propter: *per* TE. On the other hand it agrees with TE against five readings of H, the first of which is of absolutely first-rate importance; sc. § 74. arma: *harenam* H. § 75. minitatus: *minatus* H. § 92. servare: *servari* H. § 93. valeant, inquit, valeant cives mei: *valeant valeant, inquit, mei cives, valeant* H. § 95. hoc eodem: *hoc eodem illo* H. If P is considered an infallible witness to the truth, these and similar readings will be looked upon as wilful alterations in H. As, however, many of these variants found only in H are in themselves extremely attractive, we shall be justified in examining more narrowly the credentials of P. The extreme value attached to it is somewhat recent. Orelli calls it very corrupt—['Peyronus nimio corruptissimi Palimpsesti Taurinensis amore abripi se passus est']. The opposite view is put most strongly by Dr. Nohl, who says that it 'solus saepe Ciceronis verba servavit, ubi non modo codd. peccant, sed etiam Quintilianus': cf. § 94 *n.* The truth would seem to lie between these opinions. I add some cases in which P appears to me certainly in the wrong.

§ 30. feris: add. *etiam beluis*, P. How any critic can digest this, is more than I can tell. I refer to my note.

§ 49. illi, illi, inquit, tui: no one follows P, which omits the second

[1] E.g. in the de Senectute P is corrected from L and L from P: Anecdot. p. xx.

[2] So also E. The error survives in σ, and was only expelled by the scholars of the fifteenth century.

illi. I myself hold that *illa*, which P inserts *sol.* in the next line after *tua*, is due to a dislocation of *illi* here. In § 31 P gives *si* for *sin*, wrongly.

In § 88 Nohl himself surrenders *obstare poterat*, so P, for the more forcible *poterat obstare* found in the other MSS. In § 73. *implerunt* seems preferable to the unsyncopated form given by P *sol.* I do not mention ordinary corruptions such as § 35. lege Plotia: *lege P. Clodi*, P. since these are bound to occur in the best MSS. I would, however, draw special attention to the two following cases:—

§ 74. hunc P. Varium: P, according to Zuretti, gives *hunc C.* or *T. Varium*, not *P. Varium* as reported in Baiter. H has *hunc p. Varum*; TE give *hunc c. p. Varium*, blending two original variants, sc. *C.* (as probably in P) and *P.* as in H[1].

§ 75. ausum esse T. Furfanio: so Richter from MSS. indications. His restoration is confirmed by H, *ausum esset Furfanio*. P has *ausus esse Furf.*, omitting the praenomen; T, *ausum esse Furf.*, following the second hand in P; and E, *ausus esset Furf.*, a blend of P[1] and H. Here P appears to be the *fons corruptionis* in TE, while H preserves the genuine reading in an unintelligible form.

These instances will show that the question cannot be settled by an appeal to age or authority, but that the variants of H against P are entitled to be considered upon their merits. The fact is that we have not enough of P to justify us in ascribing extreme value to it, and I suspect that if we possessed more of it, we should find along with good readings a number of errors common to T. It is a well-known phenomenon for a palimpsest to incline towards the vulgar family. Instances will suggest themselves to every critic. I will only refer to the Vatican palimpsest of the Verrines, which competent scholars consider inferior to the Regius Paris. 7774 A [xth cent.][2]. If only a few sections of this had survived, it would have been natural to assign overwhelming importance to its readings, in which case very misleading conclusions as to the authority of the various MSS. would have been drawn.

In the present case it is well to be cautious as P is so scanty. There are certain errors in tenth-or eleventh-century MSS. which can reasonably be ascribed to the ignorance of copyists. On the other hand, there are variants so striking that they can only be looked upon as ultimate differences in the recension, e.g. if in § 14 P gives *arma* as against

[1] The development of this corruption in later MSS. is interesting: σ gives *hunc C. Publium virum*, and the fifteenth-century dett. e.g. *s*, *hunc Cn. Pompeium virum*, 'Varium' being expelled.

[2] Meusel, 'utri Verrinarum codici maior fides habenda sit, Palimpsesto Vaticano an Regio Parisiensi?' Berlin, 1876.

harenam, this does not prove that the latter reading has not come to H from an equally old, and possibly better, MS. The case must be judged upon its merits.

The existence of variants in the text of this speech, as in other works of Cicero, at an early date, is shown by the evidence of Gellius and Macrobius. Gellius distinguishes between the *libri minus accurate scripti*, and those embodying the revision of Tiro. He assigns to the latter the reading *versabatur* in § 53, and *versabantur* [so all our MSS. except a few late *dett.* into which the singular has been introduced from Gellius] to the inferior copies.

Quintilian.

The quotations in the grammatical and rhetorical writers are very indecisive and contradictory. Most of them come from Quintilian, whose carelessness in such matters is well known. Frequently he contradicts himself. Thus in one place [xi. 3. 172] he quotes correctly *O me infelicem* § 102, and in another [vi. 1. 24] gives *O te infelicem*. In iv. 2. 25 he gives *occisum fateatur* [§ 7], but in v. 11. 12 has *occisum esse fateatur*. In ix. 3. 28 he quotes *occidi, occidi* [§ 72], but in v. 11. 12 most MSS. give *occidi* once. Sometimes he mistakes the meaning, e.g. § 72 *cum patriam periculo suo liberasset*, where he omits *suo* [v. 11. 12], thus perverting the sense. So § 94 *O cogitationes inanes meae*, he quotes as *O cogit. in. meas*, regardless of the nominative in the preceding clause. A curious fact is, that he is followed in his slipshod quotations by later writers, who do not seem to have troubled themselves to consult a MS. An instructive instance occurs in his quotation of § 41. Here for *omnium* he gives *aliqua*, a very inferior reading, omits *quem impune*, words necessary to the sense, and inserts *cum* before *periculo*. His errors are faithfully reproduced by Isidorus and Cassiodorus. In § 9 he omits *ad hominem occidendum* [v. 14. 18], and is followed by Julius Victor and Diomedes; in § 30 he gives *si ut* for *sicut*, so Julius Victor.

In a certain number of cases the citations of Quintilian make for or against the readings of our MSS. Two obvious ones are § 1, where he omits *veterem* with TE, and § 85, where he gives *testor* with H [*obtestor* TE][1]. In both of these it may be assumed that he found the reading, which he quotes, in his copy: though of course the other reading may also have been in circulation at the time. An important case is ix. 2. 41 *Cicero pro Milone . . . haec quae non vidistis oculis, animis cernere potestis*, a loose quotation, which supports the unique

[1] It hardly seems fair of Dr. Nohl, immediately after quoting Quintil. against a reading of H, *possumus* § 105, to consider *testor* § 85 an *alteration* for *obtestor*, in spite of Quintil. He says, 'H. *testor* statt *obtestor*, so freilich auch Quintil.' [ed. 1892, krit. Anh.].

variant found in H, § 79. On the other hand, in § 10 he supports *iubent*, and in § 105 *possum*, so TE, against *volunt* and *possumus* H. It may be a mere coincidence that in § 8, quoted v. 11. 8, cod. A, the best MS., has *divinae*, the corruption also found in TE [*divina* edd.].

Asconius. The earliest and the most valuable evidence respecting the text is to be found in the *lemmata* of Asconius. His quotations are uniformly in favour of H. The chief case, the importance of which cannot be overestimated, is the omission in § 46 of the scholium *cuius . . . Romae*, for which I refer to my note. Other notable agreements are § 37 *intenta*, and § 47 *diceret*. Minor cases will be found in the notes to §§ 14, 37, 49, 67 *bis*. Though sometimes he differs from all our MSS. he never agrees with TE against H.

The results hitherto arrived at may be summed up as follows:—

(i) That the later *dett.* are useless, and among them is to be included *s*, which should disappear from the list of first-class authorities.

(ii) That the three MSS. H T E, together with the lost W, and the fragments of P, are the only source of real knowledge.

(iii) That W was a *gemellus* of T, and therefore does not add to its authority.

(iv) That T is the *fons deteriorum*.

(v) That E is a 'mixed' MS., agreeing in base with T, but corrected from H.

(vi) That in all probability H and T do not come from the same source.

(vii) That P is by no means infallible, and is too scanty to be accepted as an *arbiter*.

(viii) That many of the variants in the text go back to a remote antiquity.

I have hitherto refrained from discussing the merits of H as compared with TE, partly because I do not wish to repeat matter to be found in the notes to the speech, and partly since, if the theory advanced as to the formation of E is accepted, the superiority of H follows of necessity, since no one would now advocate the claims of T. I think it proper, however, to add a few words here upon the source from which the MS. has been taken, and upon the character of its recension.

H. [Harleianus.] The contents of the MS. are of various value, being drawn from a number of different sources. In some cases the scribe had before him an ancient MS., in others a comparatively modern one. This is shown by the presence or absence of faulty divisions, and by the style of writing, which in some parts is more archaic than in others. If we apply this test it would appear that in the later part of the MS., sc. ff. 137 *b* to 180, the

scribe was copying more ancient originals than formerly [1]. These folios contain the speeches before Caesar, pro Milone, de Imp. Cn. Pompei, excerpts from the Verrines, and de Officiis i, ii part. In the first of these the MS. is a *gemellus* of A [Ambros. x cent.], in the Verrine selections it is closely connected with R [Reg. Par. x cent.], in the de Officiis, with B [Bamberg. x cent.], in all cases the best authorities [2]. That the pro Milone and de Imp. Cn. Pompei are drawn from an equally good source I cannot doubt. This part of the MS. then differs considerably from that containing the Cato maior, Laelius, and speeches against Catiline, to which I attribute little authority. I mention this, since in some of the kindly notices received by my Anecdoton the distinction did not seem to be realized [3].

As to the *provenance* of the MS., that acute scholar L. Mendelssohn, speaking of the Epp. ad Familiares, the latter half of which it contains, has made the interesting guess that they may have been taken from the MSS. which we know from the ancient catalogue to have existed at Lorsch [4]. In view of this conjecture it must not be forgotten that the same library contained one of the three copies of the *pro Milone* mentioned in the catalogues [5]. It is, therefore, not improbable that this portion of the MS. was drawn from the same source.

Lastly, as to the character of its recension, what degree of authority can be ascribed to this, our most reliable MS.? Is it free from glosses, or interpolations? The answer is 'certainly not.' No MS. is, certainly no xith cent. MS. Thus § 7 for *disputant* it gives *disputant. obiciunt*, and § 81 adds *potius* after *ingratius*, which I cannot but consider an interpolation. The merit, however, which I would claim for it, is that in it a corruption is frequently found in its rudimentary form, while in TE it has been disguised. Thus in § 102 it gives the unconstrueable *grā* [i. e. *gratia*] *ingentibus*, while TE disguise the lacuna by the plausible *grata gentibus*. So § 46 *ex quibus id facillime scire posset*, H adds *homines scilicet*, a very crude addition, while TE amplify into *omnes scilicet Lanuvini*. In § 79 *quin sic attendile iudices*, H adds *nempe. de interitu P. Clodi*, the note of a *sciolus* from the margin: TE develop this into *nempe haec est quaestio de interitu P. Clodi*. So § 43 H gives *qui se ille* [*ipse* Stangl.] . . . *putaret*, which does not construe: TE hide the corruption by *quin se ille*, which gives a construction but perverts the sense. T is an especial offender in this way, continually attempting to hide corruptions, or to incorporate additions in the text.

[1] Anecdot. pp. xxix, lii, xxvii.
[2] *Ib.* p. xv.
[3] E. g. Athenaeum, Jan. 7, 1893, Wochenschr. f. kl. Phil. Nov. 23, 1892.
[4] Manitius, p. 18.
[5] p. xxxii, supr.

Apart from ordinary corruptions and silly additions, the speech has specially suffered from the embodiment of *scholia*. These were taken into the text from the margin, where they were originally placed. Such *scholia* are found in the margin of P, e. g. § 73. *aedem Nympharum*, the annotator adds, *ubi publici census continebantur*. Such additions were in some cases founded upon information supplied by Asconius. The case in § 46 has been already referred to. Other examples are § 27. *quod erat dictator Lanuvii Milo* (Ascon. 32 *Lanuvium*, ex quo erat municipio, et *ibi tum dictator*), and § 90. *Sex. Clodio duce* (Ascon. 34 populus *duce Sex. Clodio* corpus P. Clodi in curiam intulit). In the first case the incorrect indicative, and in the second the confusion in the MSS., testify to the intrusion. Other more or less learned scholia have been pointed out by Bake, e. g. § 35. *reus enim Milonis lege Plotia fuit Clodius, quoad vixit*, a very dark saying, and § 59. *de servis nulla lege quaestio est in dominum nisi incesti* [so H, *de incestu* TE] *ut fuit in Clodium*, where the irregular construction *incesti* betrays the annotator. Another case is § 89. *quae est inventa apud eum cum reliquis legibus Clodianis*. The author of the latter may well have been the gifted person, who in § 47. *iacent suis testibus* added *ii, qui Clodium negant eo die Romam, nisi de Cyro audisset, fuisse rediturum*, a remark plainly against the sense, and only to be harmonized with the context by emendation. The knowledge possessed by mediaeval annotators may be estimated from the argument to this speech found in H and E, where we are told that he went into exile at Tomi in Scythia; a confusion of his fate with that of Ovid [1].

Lastly, it would be contrary to reason to suppose that the process of corruption—whether mechanical, arising from the development of a blunder, due originally to a slip of the pen, or semi-intelligent, owing to the addition of variants from other MSS. by the corrector—such as is revealed to us in the gradual formation of the inferior text, was not equally operative in the preceding silent centuries. The best MS. has its limitations, and it is well to recognise the insufficiency of our guides.

In this connexion I quote in full some very suggestive remarks of that excellent scholar K. Lehmann, taken from an article to which I have already referred [2]. 'What is the conclusion? I cherish the conviction that in the ixth or xth century there was in existence a current recension of certain works of Cicero, into which readings were engrafted from a good MS. by an intelligent and judicious critic, and that the result of this process lies before us in the case of the speeches pro Milone, de Imp. Cn. Pompei, &c., in HETS [i. e. *s*], and the other MSS. The conclusion

[1] See p. 136. [2] p. xlvii, *n.* 3.

is not comforting, since the next inference is, that in all cases where we have not such good MSS.,—as e. g. P and L are in the de Senectute—criticism builds upon an insecure foundation; that e. g. in the pro Milone, where P is deficient, a conjecture may be put forward, which suits the sense, but is not convincing, since the readings before us are themselves the deposit of an ancient, and intelligently-formed recension. Still, comforting or not, the question is, whether the conjecture is right, or, as in such cases it is not easy to determine the truth, whether it is probable.'

That *s* must be excluded from the list of authorities I have shown above, while I hold the extreme value attributed to P by recent critics to be imaginary. The general and necessary untrustworthiness of our MSS., however, could not be more cogently expressed. 'Comforting' the conclusion may not be, but it is by the shaking of 'comfortable' beliefs that the spirit of inquiry is quickened.

IV. The Style and Composition of the Speech.

The *Miloniana* belongs to the third or most finished period in the development of Cicero's style. As is well known, at the beginning of his career he had shown an inclination towards the Asiatic school of orators; a tendency usually ascribed to the influence exercised upon him by Hortensius[1]. The characteristics of these writers were a perpetual struggling after effect, and an excessive fondness for decoration, manifesting themselves in elaborate periods, in rhythms repeated until they became wearisome, in ceaseless assonances and alliterations, in collocations of words so artificial that the art became apparent[2]. The chief examples of this first manner of Cicero are the pro Quinctio and pro Sex. Roscio Amerino. He was cured of this tendency by his sojourn in Rhodes, where he studied under Molon, who 'penned within its banks'[3] the overflowing stream of his youthful eloquence. It is customary to assign the name of Rhodian to his second style, that in which most of his speeches are written, this being a compromise between the luxuriance of the Asiatics and the simplicity of the strictest Attic writers. This eclectic style, however, was in character more nearly related to the Asiatic than to the Attic[4]. At this time the younger writers in Rome were thoroughgoing Atticists, and selected Lysias especially as their model[5]. The style of Cicero himself was steadily developing in the direction of greater simplicity, and he now disputes with his opponents the right to call

[1] Cf. Landgraf, Rosc. Am. p. 120 sq.
[2] Orat. 231.
[3] Brut. 316 dedit operam ut . . . quasi extra ripas diffluentes coerceret.
[4] Landgraf, p. 121, *n.* 3.
[5] Mommsen, iv. 610.

himself an Atticist. He says that they are content to avoid faults, but that something more than this is necessary for excellence. Sobriety and chastity of style are insufficient if unaccompanied by breadth, elevation, and grandeur. A good style needs power, sinews, and the breath of life. His critics unduly narrow the meaning of 'Attic' and arbitrarily choose Lysias as their model, forgetting that there is a greater Attic writer in the person of Demosthenes. The characteristic of the latter is the variety of his moods; he can be passionate, as well as restrained. Lysias cannot raise his voice, but Demosthenes can at need lower his. Cicero therefore definitely adopts Demosthenes as his pattern, and in the sense that they approximate in style to his, the speeches of this period may be classed as Attic, the *Ligariana* being the best specimen of this third manner. In other words, his last style is a compromise in favour of the Attic, while his middle one had been in favour of the Asiatic school. The theories of Cicero upon the subject are set forth in the tract *de optimo genere Oratorum*—ascribed to the year in which the *Miloniana* was composed—which was intended to serve as an introduction to a translation now lost of the *de Corona*, together with the rival speech of Aeschines[1].

As a piece of composition this oration is interesting from the perfection of its technique. All the rules laid down in the text-books upon rhetoric are strictly observed. This technical perfection made it a favourite source of quotations for Quintilian and later writers: and gives the modern student an admirable opportunity of studying the laws of forensic composition, even if its very faultlessness of construction occasionally makes him when reading the speech sigh for a little irregularity.

The contemporary handbooks embracing the theory of oratorical composition are the *ad C. Herennium de arte rhetorica*, now ascribed to Cornificius, and the *réchauffé* of this, written by Cicero, *de Inventione rhetorica*, in which he occasionally modifies the canons laid down in the older treatise.

I append the following analysis of the speech[2]:—

(i) **Exordium.**

The objects to be aimed at in this are three in number, 'ut *attentos*, ut *dociles*, ut *benivolos* auditores habere possimus[3].' In order to make the hearer *attentus*, it is necessary to dwell upon the gravity of the subject, to make him *docilis*, one must state the *summa causae*, to make him *benivolus*, one should appeal to personal considerations.

The exordium in this speech is one of those termed περιστατικά, i. e.

[1] De Optimo Gen. Orat. 14.

[2] I have made great use of Meusberger's excellent dissertation upon this subject.

[3] Herenn. i. 8, de Inv. i. 20.

where the speaker calls attention to the unusual circumstances attending the trial; cf. the pro Rab. Perd. and pro Rege Deiotaro. After first—

(*a*) Securing the *attention* of the jurors, Cicero makes every effort to gain—

(*b*) Their *good-will*. This is done according to rule[1].

(1) *A sua persona*: § 1, sc. his own fears.

(2) *Ab auditorum p.*: §§ 2, 3, sc. Pompey, the army and the multitude.

(3) *Ab adversariorum p.*: § 3, the character of the *Clodiani*.

(4) *A rebus ipsis*: §§ 4, 5, the patriotic policy of Milo, with whom Cicero associates himself.

(*c*) He then rapidly sketches the *summa causae*, in order to secure the *docilitas* of his hearers: namely, *insidias Miloni a Clodio factas*.

Before, however, entering into a discussion of the facts it is necessary to remove three suppositions fatal to his client[2].

(ii) **Praeiudicia.**

(*a*) 'The self-confessed shedder of blood is condemned already.'

This is not so, since homicide is sometimes justifiable[3]: as is shown §§ 7–11.

(1) From legend, the story of Horatius.

(2) From history, the execution of conspirators.

(3) From fiction, the murder of his mother by Orestes.

(4) From recent events, the story of the soldier who killed his officer.

(5) From the unwritten law of nature, and the written law of man, which sanction homicide in self-defence.

(*b*) 'The senate has decided that the murder was *contra rempublicam*.'

That it did not thereby show itself hostile to Milo is proved out of the accusers' own mouths, since they complain that the senate merely acts to register the wishes of Cicero. All violence in a free state is *contra remp.*, even violence in the cause of order. The senate agreed with Cicero in wishing for an enquiry into the facts, but did not contemplate these novel proceedings [§§ 12–14].

(*c*) 'Pompey has condemned Milo already.'

[1] Benivolos auditores facere quattuor modis possumus, ab nostra, ab adversariorum nostrorum, ab auditorum persona, ab rebus ipsis: Herenn. *l. c.*

[2] Quintil. iv. ii. 25, *ib.* v. ii.

[3] Cicero is here arguing the general question that homicide is sometimes justifiable. This is *iuridicialis constitutio absoluta*. In such a case we must ask *iurene sit factum*. To decide this it is necessary to ask of what *ius* consists. Constat igitur ex his partibus: *natura, lege, consuetudine iudicato, aequo et bono, pacto*: Herenn. ii. 19.

Pompey has done nothing except order an enquiry. He did this, not because the death of Clodius differed from that of other men, but in order to show his own impartiality. He has shown the verdict he desires by putting in the box the strongest men in Rome, and Domitius himself on the bench [§§ 15–22].

After thus clearing the ground he proceeds to state the facts:—

(iii) **Narratio**: §§ 24–29.

In this three things are necessary: 'ut *brevis*, ut *dilucida*, ut *veri similis* sit[1].' Further it should be told in such a way as to suggest the points afterwards taken up in the *tractatio*[2].

The *narratio* here is: (*a*) *brevis*, since Cicero plunges into the subject, and uses all possible compression; (*b*) *dilucida*, since he observes the proper sequence of events; (*c*) *veri similis*, as a model of artful simplicity[3]. The language employed is that of good conversation, never attempting to soar, but neither vulgar, nor bald[4].

The rule that it should suggest the points afterwards argued is strictly observed: thus §§ 24–26, describing the projects and character of Clodius, correspond to §§ 32–43, containing the *probabile ex causa* and *ex vita*, while §§ 27–29, with their artful references to the place, the time, and the occasion of the murder, anticipate the argument from the *signa* in §§ 44–56.

The *narratio* leads to the *constitutio causae*, §§ 30, 31. Was Milo right or wrong in killing Clodius? This depends upon the antecedent question, *uter utri insidias fecerit*. The accuser says it was Milo, and the defender, Clodius. The conflict of these two statements gives us the point at issue, *rem quae in iudicium venit*[5].

It was usual to state the point at issue earlier in a speech; but Cicero postponed it to the *narratio*, since the defence depends upon the colour given to the facts. The line to be followed was only indicated in §§ 6 and 23, but now is definitely adopted. As a question of fact is at issue, the character of the arguments is changed. To use technical language, although the *status* of the case is *iuridicialis*, sc. *iure an iniuria occiderit Milo Clodium*, the *constitutio causae* is *coniecturalis*. The rules laid down

[1] Herenn. i. 14, de Inv. i. 20.

[2] Quintil. iv. 2. 55 omnia . . . quae probatione tractaturi sumus, personam, causam, locum, tempus, instrumentum, occasionem, narratione delibabimus: cf. de Or. ii. 330.

[3] Quintil. *ib.* 57 plurimum . . . facit illa callidissima simplicitatis imitatio.

[4] Herenn. iv. 14, *ib.* 16.

[5] Herenn. i. 26 ex ratione defensionis et ex firmamento accusationis iudici quaestio nascatur oportet, quam nos *iudicationem*, Graeci κρινόμενον appellant.

in the books as to the conduct of a *causa coniecturalis* are strictly followed [1].

(iv) **Tractatio**: §§ 32–71.

The parts of this are *probabile*, *collatio*, *signa*, *argumenta*, *consecutio*, *approbatio*. The *probabile* falls into two parts, sc. *ex causa*, and *ex vita*. *Collatio* [2] is the process of showing how the allegations fit, or do not fit, the person accused. *Signa* and *argumenta* are proofs taken from the place and time, &c. of the deed. *Consecutio* [3] refers to the behaviour of the accused after the deed: and *approbatio* [4] to rhetorical commonplaces, used after the suspicion has become a certainty: such *communes loci* are e. g. for or against attaching credence to rumours, or to the evidence of slaves taken under torture. In this speech one of these *loci* precedes and another comes after the *consecutio*, thus giving variety to the composition, which hitherto had been perfectly regular.

1. Probabile.

(*a*) *Ex causa* §§ 32–34. This he examines first in the case of Clodius, and then in that of Milo. The argument proceeds by the usual steps [5]. In the case of Clodius we have, (1) the *propositio*, that he hoped to profit by Milo's death; (2) the *ratio*, that bad men are tempted even by a trifling gain; (3) the *confirmatio*, that, if Milo were killed, Clodius would control the consuls; (4) a striking *exornatio*, in the shape of a dramatic appeal to Sextus Clodius to produce his portfolio of laws. The fifth part of the argument, sc. the *complexio*, is omitted according to a frequent practice [6]. The same method is then applied to Milo's case, and in this case the argument is wound up by a *complexio*, or *résumé* (*itaque Milonis . . . mors Miloni*). To this succeeds the *collatio*. All the incentives were present in the case of Clodius, and absent in that of Milo, § 35.

(*b*) *Ex vita* §§ 36–41. First to take the life of Clodius, and then that of Milo. Clodius had used violence against Cicero, Pompey, and others. 'The dagger he inherited from Catiline had never rested.' Milo only used violence after he could not get a legal remedy, and then only in the

[1] Herenn. ii. chh. 2–8, which should be read in connection with this part of the speech.

[2] *Ib.* ch. 6 *Collatio* est cum accusator id, quod adversarium fecisse criminantur, alii nemini nisi reo bono fuisse demonstrant.

[3] *Ib.* 8 *Consecutio* est cum quaeritur, quae signa nocentes et innocentes consequi soleant.

[4] *Ib.* 9 *Approbatio* est, qua utimur ad extremum confirmata suspitione.

[5] Absolutissima et perfectissima est argumentatio ea, quae in quinque partes est distributa: propositionem, rationem, rationis confirmationem, exornationem, complexionem: Herenn. ii. 28–30.

[6] Est cum complexione supersedendum est, si res brevis est, ut facile memoria comprehendatur: *ib.*

cause of order. The *collatio* succeeds, §§ 41–43. Again, such an act agrees with the past life of Clodius, but not with that of Milo.

2. SIGNA, ARGUMENTA § 44.

A *signum* is evidence to show *idonea perficiendi facultas*[1]. Of this there are six main varieties: locus, tempus, spatium, occasio, spes perficiendi, spes celandi. An *argumentum* is evidence drawn from the behaviour of a person, before, during, or after the act[2].

An *argumentum* against Clodius is that three days before he said to Favonius that Milo had only three days to live. This leads one to consider:—

[*a*] *Tempus* §§ 45, 51.

(i) The *day*[3]. Milo was forced to leave Rome on the 18th, Clodius was required at Rome on that day for a meeting. Clodius could easily know that Milo would be travelling on the 18th. Milo could not know this of Clodius, since, according to the evidence of the latter's friends, he had not intended to travel at all, but to spend the night of the 18th in his villa. This evidence clears Milo, since he could have had no knowledge. It does not, however, clear Clodius, since the statement was merely a blind. He was waiting for Milo, and came out to attack him.

(ii) The *hour*. Why should Clodius start on a journey just before nightfall? No explanation can be given, unless that he wished to waylay Milo. If Milo, however, had intended to waylay Clodius, his obvious course was to wait till the latter was near Rome, and to slay him under the cover of night. The only other alternative was to kill him before he reached his villa at all, when on his way from Aricia.

The arguments thus far used are now restated in a series of antitheses under the form of *frequentatio*[4]. The *probabile ex causa* and *ex vita*; the day and the hour of the occurrence all divert suspicion from Milo, and cast it on Clodius, § 52.

[*b*] *Locus* §§ 53, 54.

On this the advocate rightly lays the greatest stress. It was just before the estate of Clodius, where he had a thousand men employed, and on rising ground that the fray took place. If the encounter were represented in a picture, a glance would tell us who was the aggressor.

[1] Herenn. ii. 6, de Inv. i. 38.

[2] Argumentum dividitur in tempora tria: praeteritum, instans, consequens: Herenn. *l. c.* As an illustration of the first is given *num quid dixerit*, of the second *num visus sit, cum faciebat*, of the third *si cruor in vestimentis*; only the first of these can here be used.

[3] Herenn. *l. c.*, noctu an interdiu, et qua die, qua noctis hora factum esse dicatur, et cur eiusmodi temporibus.

[4] Herenn. iv. 53 cum res in tota causa dispersae coguntur in unum locum.

[*c*] *Facultas* §§ 55, 56.

I. e. the means at the disposal of the combatants[1]. Milo was handicapped by the size and character of his followers, and by the presence of Fausta. Clodius was prepared for fighting. He owed his death to the courage of his intended victim, and the loyalty of the latter's slaves.

The mention of the slaves leads to the introduction of a

3 *a*. Locus communis contra quaestiones §§ 57–60.

This forms the first part of the *approbatio*. Arguments for and against *quaestiones* are given in the text-books[2]. Cicero here, however, has to argue the case from a different point of view, since he is not discussing the value of evidence already given, but has to justify the conduct of Milo in manumitting his slaves, and thus freeing them from examination. He does this by an audacious misrepresentation. Slave-evidence, he says, is only useful upon a question of *fact*, and is inapplicable in a matter of *right and wrong*, such as the present. He thus reverts to the original *status* of the case, *iure an iniuria*, suppressing the antecedent question *uter utri insidias fecerit*, which he has actually been arguing[3]. The law does not allow slaves to be examined against their masters, since this was repugnant to decency. *A fortiori*, it is absurd for the accuser to submit his slaves to torture, since he alone has had access to them, and they have been carefully schooled.

4. Consecutio §§ 61–63.

The behaviour of Milo since the event shows his consciousness of innocence, his trust in the people, in the senate, and in Pompey.

3 *b*. Locus communis contra rumores §§ 64–66.

Forming the second part of the *approbatio*[4]. This is especially directed against the suspicions of Pompey. It was said that Milo was storing arms, and preparing for a *coup de main*. Also, that drunken slaves of his made confidences to a butcher about an attack on Pompey, and then wounded their confidant. Milo was charged with wearing a weapon in the senate, and promptly cleared himself. The other charges were equally groundless.

[1] Quintil. v. 10. 49 intuendae sunt praecipueque in coniecturis et facultates: credibilius est enim occisos a pluribus pauciores . . . a praeparatis inopinantes.

[2] Herenn. ii. 10, de Inv. ii. 46 and 50, Quintil. v. 4. The chief argument to be urged in favour of torture is *mos maiorum*, and against it, the unreliability of evidence thus obtained. The subject must have been worn threadbare in the courts, and it is difficult to see how such hackneyed arguments could influence a juror.

[3] I. e. he treats it as a *constitutio iuridicialis*, not *coniecturalis*.

[4] Herenn. ii. 12 Ab rumoribus dicemus, si negabimus temere famam nasci solere quin subsit aliquid, i. e. 'there is no smoke without fire,' contra rumores dicemus, si docebimus multos esse falsos rumores: Quintil. v. 3.

The argument is wound up by a spirited appeal to Pompey, §§ 67–71 [*ἀποστροφή* or *aversus a iudice sermo*][1], to save an old friend, whom he may some day need. Pompey's face is supposed to change; a cry of triumph breaks forth from the advocate, and the first part of the defence is ended.

Cicero now passes from the *constitutio iuridicialis absoluta*, and occupies his second line of defence.

(v) **Pars adsumptiva**, or **extra causam** §§ 72–91.

This is resorted to when it is necessary to strengthen the defence by a fresh argument[2]. In the *pars absoluta* Cicero argued *iure fecit*: in the *pars adsumptiva* the position is 'even if Milo did murder Clodius, still we must consider the circumstances which qualify the act.' Various methods of conducting such a defence are prescribed by the text-books[3]. The one chosen by Cicero is that termed *ἀντίστασις*, *comparatio*, or *compensatio*[4]. In this the act is acknowledged, but it is urged that the benefit to the state outweighs the offence. Cicero probably treats the question from this point of view out of rivalry with Brutus, whose pamphlet had been entirely based on this argument. He saw, however, that the position could not be maintained, and therefore soon shifts his ground, §§ 83–93, and declares that it was Providence which was at work, so that Milo cannot claim the glory.

If Milo were to tell a 'magnificent lie,' and say, 'I did the deed,' he would be justified in having slain one who in the past had assailed all members of the community, not sparing his own kin, and in the future menaced every interest. If it were possible for Clodius to rise from the dead, everyone would shrink with horror from the prospect, and Pompey would himself refuse to call him forth.'

Milo, however, does not claim the glory. It was Heaven that tempted Clodius to his fall, and it was before the shrine of the Goddess whom he had outraged that he received the fatal blow. But for the interposition of Providence, ruin final and complete must have ensued.

The object of the *pars adsumptiva* has been to kindle the jurors to

[1] Quintil. ix. 2. 38 Eius constitutionis partes duae sunt, quarum una absoluta, altera adsumptiva nominatur. Absoluta est, cum id ipsum, quod factum est, ut aliud nihil foris adsumatur, recte factum esse dicemus. . . .

[2] Herenn. i. 24 adsumptiva est, cum per se defensio infirma est, adsumpta extraria re comprobatur, de Inv. ii. 69.

[3] Herenn. *l. c.*, Quintil. vii. 4. 10–20.

[4] *Γίγνεται ἀντίστασις ὅταν ὁμολογῶν ὁ φεύγων πεποιηκέναι τι ὡς ἀδίκημα, ἀνθιστᾷ ἕτερόν τι εὐεργέτημα μεῖζον δι' αὐτοῦ τοῦ ἀδικήματος πεπραγμένον*: Hermogenes [Volkm. p. 49]. Factum defenditur . . . ex aliqua utilitate aut rei publicae, aut hominum multorum: Quintil. *l. c.*

passion, the method employed being that of *amplificatio*. This is conducted by well-known *loci communes*[1], such as the workings of Providence, &c. The next and final task is to excite pity.

(vi) **Epilogus** §§ 92–end.

The orator proceeds by *commiseratio*[2]. The usual course is to awaken the pity of the jurors by the tears of the accused, and by a description of the ruin which condemnation will entail. In the present case the demeanour of Milo makes it impossible to appeal for mercy towards him, and so Cicero pleads for pity upon himself[3]. The framework of the peroration consists of a series of *prosopopoeiae*, or imaginary dialogues of Milo with his defender; these being especially appropriate in this place[4].

The tears of the orator are now supposed to have spread to the jurors. The 'psychological moment' has come; in short broken sentences he makes a last appeal to their courage, and ceases before the tears have time to dry[5].

V. The Orthography of this Edition.

The present state of Latin orthography is one which must cause some perplexity to every editor. Apart from those words the spelling of which may now be regarded as fixed, there are a number of cases in which MSS. inscriptions and editors alike vary. In such cases should one follow as closely as may be the MSS. tradition, or, disregarding the MSS., endeavour to lay down general rules as to the forms used by the author? The first system is that of Lachmann, Ribbeck, Munro, and others, and has been adopted by C. F. W. Müller, in his edition of Cicero's works. The second is that of Dr. Reid, who in the introduction to his Academics, while holding that 'the best MSS. are but indifferent guides,' says that his aim has been 'to arrive as nearly as possible at the

[1] Herenn. ii. 47–49, ten *loci communes* to be used in *amplificatio* are enumerated, e. g. quantae curae ea res fuerit *dis immortalibus* . . . illae res . . . ad quos pertineant, *utrum ad omnes*, . . . quid *periculorum* consequatur.

[2] *Ib.* conclusiones [i. e. ἐπίλογοι] constant ex enumeratione, amplificatione, et commiseratione. Of these processes the first two have been already employed, and so the third is adopted.

[3] Quintil. vi. 1. 24 nonnumquam etiam ipse patronus has partes subit.

[4] Volkmann, p. 231.

[5] *Ib.*; de Inv. i. 56 quemadmodum enim dixit rhetor Apollonius, *lacrima nihil citius arescit*: Herenn. ii. 30, Quintil. *l. c.*

orthography which Cicero used.' There appear to me to be difficulties in the way of either system.

To take first that of C. F. W. Müller. He generally follows E (xii/xiii cent.), but sometimes adopts a spelling from T (xi cent.), and where P (prob. v/vi. cent.) is extant, generally follows it. The result is a curious mixture. Thus in § 35 he gives *inprobos*, finding this spelling attributed to P in Baiter's notes; but elsewhere *improbus*. As a matter of fact P has *improb.* here also, the statement of Baiter being due to an erroneous inference. He prints *inpune* always, but in § 39 *impunitate*, where, however, HT give *inpun.* also. In § 45 he has *adproperaret* with E, but in § 48 *appropinquare*, again following E. The other spelling *adprop.* is, however, here found in H. Generally he omits *s* after *ex* in words like *exspecto*, but § 49 has *exspectandum*. This apparently is not a printer's error, but due to the fact that E, which generally omits *s*, here retains it (H gives *expect.*)[1]. In § 16 he gives *illata* with E, but a few lines further has *inlata*, also with E (H has *inlata* in both places). This variety is very bewildering to a reader. While I do not dispute that Cicero may have varied his practice, I would urge that the evidence of our MSS. is of little value in regard to such *minutiae*. Thus in § 92 the palimpsest gives *inploro* immediately after *implorat*. Is not this obviously due to accident, rather than to a genuine tradition? If, however, this applies to a really ancient MS. such as P, *a fortiori* it is true of a late MS. such as E. Anyone who has handled tenth- or eleventh-century MSS. is aware that in them such spellings as e. g. *inlata*, *inploro*, and the like, are systematically altered to *ill.* and *impl.* by the second hand, the alteration being generally reproduced in later MSS. of the same stock. Such varieties then as those in E are, in all probability, due to the vagaries of a corrector, and do not deserve serious attention.

The second system, that of Dr. Reid, is one to which I am much attracted. I have, however, not seen my way to adopt it on this occasion. In the first place, this edition is largely concerned with textual questions, and I do not like to so far desert the MSS. as to print e. g. *novom*, *avonculus*, *propincus*, and the like. I also suspect that more extensive changes will be necessary if we endeavour to arrive at the orthography which Cicero actually used. To take a simple case. We are expressly told by Quintil. (i. 7. 20) that Cicero wrote *caussa*, *cassus*, *divissio*, &c., 'as was shown by writings in his hand.' Dr. Reid formerly printed *caussa*, but in his edition of this speech has returned to *causa*. I certainly do not think that public opinion is yet ripe for *cassus* and *divissio*, yet the evidence for these forms is unimpeachable[2]. Also, in some cases it is

[1] Freund, p. 37.

[2] Brambach, pp. 273 sqq.

difficult to see why one of several alternative forms should be exclusively used. Thus, for the dat. or abl. plural of *is* the Romans used under the Republic *eis*, *eeis*, *ieis*, and *is*, while *iis* appeared under the Empire[1]. Dr. Reid selects *eis* as Cicero's form. In such an inscription, however, as that recording the performance of the *Ludi Saeculares* under Augustus, which is likely to have been composed with great care, *ieis* is exclusively used. The dat. of *qui* in the same inscription is always *quoi*, a form which is said to have been generally used until the middle of the first century A.D.[2] It would be easy to multiply examples. Further, any system which is uniform—and to my mind uniformity is above all necessary—must be to some extent conventional, since the evidence shows that the same person did not adhere to one system. Thus in the inscription previously referred to we find *inperare*, *inmolare*, but *imperator*, *complures*; *aheneus* and *aenator*, *loedi* and *ludi*, &c.[3]. A Roman allowed himself to vary his orthography, but with the means at our disposal we cannot possibly say when he used one form and when another.

Under these circumstances I have taken refuge in a compromise by adopting as a basis the orthography of Nohl. This is frankly conventional, and has been praised by Dr. Landgraf on account of its approach to uniformity[4]. I have ventured to introduce some modifications. Thus, I print always *poenire*, *poeniri*, *poenitor* (cf. § 9 for the MSS. evidence), and *monimentum* (cf. § 18 *n*). In § 94 I give *optuli* with PHT since otherwise a Ciceronian assonance is lost, and § 98 *ommutescet*, a rarer spelling, from H. Also I print throughout *-i*, not *-ii*, as the genitive singular of nouns whose nominative ends in *-ius* or *-ium*. As Dr. Reid remarks, 'the fact that some of our MSS. preserve the original form in as many cases as one in five is utterly incapable of explanation on the supposition that the form used by Cicero was that in *-ii*.'

[1] Brambach, p. 140.
[2] *Ib.* p. 228.
[3] Ephem. Epigr. viii. 273.
[4] Bursian's Jahresbericht, 1889, p. 222.

ABBREVIATIONS

Act. Erl. = Acta Erlangensia.
Anecd. = Anecdoton.
Dig. = Digest.
Garat. = Garatoni.
Jahrb. = Jahrbücher.
Krebs-Allg. = Krebs-Allgayer.
Krit. Anh. = kritischer Anhang.
KS. = Kiessling and Schöll.
Landgr. = Landgraf.
Madv. = Madvig, Latin Grammar.
Madv. Ep. Cr. = Madvig, Epistola Critica.
Madv. Op. Ac. = Madvig, Opuscula Academica.
Mnem. = Mnemosyne.
Momms. = Mommsen, History of Rome.
Momms. Staatsr. = Mommsen, Römisches Staatsrecht.
Nägelsb. = Nägelsbach.
Nohl[2] = Richter-Eberhard ed. 4 *curante* Nohl.
RH. = Reisig-Haase.
Richt.-Eb. = Richter-Eberhard.
Schol. *or* Schol. Bob. = Scholiasta Bobiensis.

The abbreviations used to express the works of Cicero generally correspond with those employed by Merguet. The following may require explanation :—

Cato M. = Cato maior, *sive* de Senectute.
Div. = de Divinatione.
Dom. = de Domo sua.
Imp. Pomp. = de Imperio Cn. Pompei, *sive* pro Lege Manilia.
Lael. = Laelius, *sive* de Amicitia.
N. D. = de Natura Deorum.
Quir. = post reditum ad Quirites.
Sen. = post reditum ad Senatum.
Verr. A. P. = in Verrem Actio Prima.

In quoting Festus I follow the paging of Müller's edition [M.] For grammatical writers I refer to the volumes of Keil's Grammatici Latini. Quotations from the writers upon rhetoric are taken from Halm's Rhetores Latini Minores.

The symbol § is only used to refer to the sections of the speech. When quoting from or referring to the Argument of Asconius I give the usual paging, e. g. Ascon. 38: when, however, he is commenting upon a passage of the speech I refer to this, e. g. Ascon. on § 46.

I have in the notes referred to a number of works by their author's name alone. A fuller description of these will be found in the following list.

LIST OF WORKS REFERRED TO IN THE NOTES

[The following works are generally referred to by the author's name only, or by an abbreviated title.]

(1) *Editions of all the speeches*:—

LAMBINUS, D., ed. 1 (Paris, 1565–6): ed. 2, posthumous, in which only the marginal readings and the notes at the end possess any value (Paris, 1572–3).

GULIELMIUS, J., died 1584, his recension is contained in the edition of Gruter. (Hamburg, 1618.)

GRAEVIUS, J. G., 'cum notis variorum.' (Amsterdam, 1684–99.)

ORELLI, J. C. (Zürich, 1826–36): re-edited by BAITER and HALM, 1845–1862, the former being responsible for the *Miloniana*.

MÜLLER, C. F. W. (Leipzig, 1884–6.)

(2) *Editions of this speech singly, or with two or three others.*

(*a*) *Without Explanatory Notes*:—

FABRICIUS, F., 'Pro Milone et de Provinciis Consularibus.' (Düsseldorf, 1569.)

HEUMANN, C. A., with notes on textual points. (Hamburg, 1733.)

PEYRON, A., 'Oratio pro Milone a lacunis restituta.' (Stuttgart, 1824.)

FREUND, W., 'Oratio pro Milone ad cod. Erfurtensis exemplar lithographico opere descripta.' (Breslau, 1838.)

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(*b*) *With Explanatory Notes*:—

GARATONI, G. (Bologna, 1817): his notes are most accessible in the edition of this speech by Orelli. (Leipzig, 1826.)

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(3) *Dissertations, pamphlets, articles, &c.*, dealing specially with this speech, with the commentary of *Asconius*, or with the *Scholia Bobiensia*.

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EVENTS OF THE YEAR 52 B.C.

January 17. Clodius goes to Aricia (§ 27, and Ascon. 32).

18. *Contio* of Pompeius Rufus and Sallustius. Milo goes to Lanuvium, meets Clodius near Bovillae, murder takes place about ninth hour, body brought to Rome before nightfall (Ascon. on § 45, *ib.* 33).

19. Riot at daybreak, the *Curia* burned, Milo returns to Rome at nightfall (Ascon. 34).

21.[1] M. Lepidus made *interrex*, his house besieged for five days (Ascon. on § 13).

22. Milo attempts to interview Pompey in his *horti* (Ascon. on § 67).

23. Q. Pompeius Rufus accuses Milo of plotting against Pompey (*ib.*).

[ ] Contio of Caelius (*post aliquot dies*, Ascon. on § 34).

27. *Novendiale* in memory of Clodius in the Forum (Dio C. xl. 49).

February *Interregna* throughout month, Pompey remains in his *horti*.

18. Metellus Scipio describes the murder in the Senate (Ascon. 36).

Mensis Intercalaris. *Interregnum* continued until, probably early in the month, the *sen. cons. ultimum* is issued, *ut interrex et Cn. Pompeius, qui pro cos. ad urbem erat, viderent ne quid detrimenti res publica caperet.* Pompey levies troops. The slaves of Milo and of Clodius are demanded for examination (Ascon. 35). Pompey again refuses to see Milo (*ib.* on § 67). Story of the *sacrificulus* (*ib.*).

25. Pompey made *consul sine collega* (Ascon. 37).

28. Meeting of the Senate (*ib.* on §14). A *sen. cons.* passed declaring the *caedes* of Clodius and the subsequent riots to have been *contra rem p.*, but a proposal to form a *quaestio extraordinaria* for the trial of Milo vetoed by Fufius Calenus. Pompey then brings forward his own laws (1) *de vi*, (2) *de ambitu* (*ib.* 37).

March 1. Plancus holds a *contio* (*ib.* on § 14).

[ ] Pompey fears assassination—evidence of M. Aemilius Philemo—Galata seized by the police, and released by Caelius—Q. Pompeius Rufus and Plancus threaten to impeach Cicero (*ib.* 38, 39).

16.[2] *Leges Pompeiae* passed, *Comitia* held, and L. Domitius Ahenobarbus elected *quaesitor de vi* (*ib.*).

[ ] Milo accused on three charges (*ib.* 40).

[ ] *Divinatio* between the accusers *de ambitu* (*ib.*).

April 4. *Milo adest de vi*, evidence of C. Causinius Schola (*ib.* 41).

5. Evidence.

6. Evidence: *aequatio pilorum. Contio* of Plancus (*ib.*).

7. [3]*Sortitio* of eighty-one jurors—speeches made on either side—jurors reduced to fifty-one by *reiectio*—verdict (*ib.*).

8. Milo condemned in absence *de ambitu* (*ib.* 54).

[ ] (Post paucos dies) *de sodaliciis* (*ib.*).

[ ] Also *de vi* again, probably under the *lex Cornelia*, see Ascon. 54 *n.*

[ ] Saufeius acquitted by one vote: tried again under the *lex Plotia*, and again acquitted (*ib.* 54, 55).

[ ] Sextus Clodius condemned (*ib.*).

May, June, July. Trials continued (*ib.*).

August 1. Pompey coopts his father-in-law, Q. Metellus Scipio.

[1] See p. xxii. 2. [2] Cf. Ascon. 37 *n.* [3] See pp. 127 sqq.

INDEX CODICUM

P = Palimpsestus Taurinensis (p. xliii).
H = Harleianus 2682, saecl. XI (pp. xxxviii sqq., xlvi sqq.).
W = Werdensis (pp. xxxvi sqq.).
T = Tegernseensis (Monacensis 18,787), saecl. XI (p. xxxviii).
E = Erfurtensis (Berolinensis 252), saecl. XII/XIII (pp. xxxviii sqq.)[1].

σ = Auct. Rawl. G. 138, saecl. XIV (p. xxxiii sqq.).
χ = Coll. Nov. CCXLIX, saecl. XV (*ib.*).
s = Salisburgensis (Monacensis 15,734), saecl. XV (pp. xxxii sqq.).
δ = consensus codd. $\sigma\chi s$.

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h = Digby 19, saecl. XV (p. xxxiv).
λ = Coll. Linc. XXXIX, saecl. XV (p. xxxv).
χ^3 = Coll. Nov. CCCII. saecl. XV (*ib.*).
ω = Auct. Rawl. G. 137, saecl. XVI (p. xxxvi).

[1] *Vide* Mendelssohn, M. T. Ciceronis Epistularum libri XVI, Praef. p. xxi. et p. xxii. *n.* 2.

M. TULLI CICERONIS

PRO T. ANNIO MILONE

AD IUDICES ORATIO

ETSI vereor, iudices, ne turpe sit pro fortissimo viro dicere 1
incipientem timere minimeque deceat, cum T. Annius ipse magis 1
de rei publicae salute quam de sua perturbetur, me ad eius
causam parem animi magnitudinem adferre non posse, tamen
haec novi iudici nova forma terret oculos, qui quocumque incide-
runt, veterem consuetudinem fori et pristinum morem iudiciorum
requirunt. Non enim corona consessus vester cinctus est, ut 2
solebat, non usitata frequentia stipati sumus, non illa praesidia,

2. Annius: *Antonius* T. 3. *turbetur* T. 6. veterem Hδ: om. TE, Quintil. xi. 3. 50. 8. non (*ante* illa): *nec* Garat., *nam* δ.

1. **etsi... requirunt.** Quintilian, xi. 3. 47. admirably remarks upon the delivery of this sentence. 'The look of the orator must be supposed to change at every stop. Though the exordium is throughout in a subdued and minor key, a bolder and fuller note is sounded in *pro fort. viro* than in *etsi vereor*, or *turpe sit* and *timere*. The second breath must increase in volume, as the timidity of the speaker abates, and he dwells on Milo's magnanimity: *minime ... perturbetur*. Then comes a note of self-reproach, *me ... posse* followed by one of complaint *tamen ... oculos*: then "opening all his stops" (paene apertis, ut aiunt tibiis) he cries, *qui ... requirunt*.' The same writer, ix. 4. 73, notes that the first three words form the end of an iambic. This would be a defect at the end of a sentence, but is proper at the beginning of one: '*ultima versuum initio conveniunt orationis*.'

fortissimo: the courage of the accused is an example to the jurors. It is upon their courage that his hopes rest: cf. § 105 *fortissimum* quemque elegit.

3. **me**: Cicero's first task is to reassure the jurors. As however it might be indiscreet to speak of their fears, he argues against his own. He is also apologizing to the reader for his nervousness at the trial.

5. **novi iud. nova forma**: cf. Verr. v. 178 lege *nova novi* iudices; Sest. 89 *nova novi* generis edicta, Fin. iii. 3, &c.

6. **veterem**: after considerable hesitation I add this word on the authority of H, since it seems very idiomatic. Cicero has *vetus consuetudo*, Div. in Caec. 5; Verr. i. 15, v. 61; Clu. 110: cf. also ad Herenn. iv. 49 *veterem consuetudinem requiro*, Tac. Dial. 38 *consuetudinem veterum iudiciorum*, and conversely, Rab. Post. 8 *consuetudo iudiciorum nova. Vetus* and *pristinus* occur in the same sentence Fam. ix. 10. 2. The word adds to the symmetry of the clause, as balancing *pristinum*, cf. § 25 *palam* agere et *aperte* dicere. The agreement of Quintil. with TE is, I own, a strong argument against *veterem*, but need not prove more than that its omission was an ancient variant. See Madv. Op. Ac. ii. 306 *n*.

8. **stipati** = *saepti* infr. Cf. Sest. 95 *stipatus* sicariis, *saeptus* armatis.

non illa praesidia ... non: this curious use of *non ... non* in the sense of *nec ... non*, i.e. to produce an affirmative, may be paralleled from Planc. 41 *non* enim ... ista editio per se *non* acerba est, Fin.

quae pro templis omnibus cernitis, etsi contra vim collocata sunt, non adferunt tamen oratori terroris aliquid, ut in foro et in iudicio, quamquam praesidiis salutaribus et necessariis saepti sumus, tamen ne non timere quidem sine aliquo timore possimus. Quae si opposita Miloni putarem, cederem tempori, iudices, nec enim inter tantam vim armorum existimarem esse orationi locum; sed me recreat et reficit Cn. Pompei, sapientissimi et iustissimi viri, consilium, qui profecto nec iustitiae suae putaret esse, quem reum sententiis iudicum tradidisset, eundem telis militum dedere,

1. collocata HE: *collata* Tδ. 2. oratori: *del.* Heumann, recc. edd. terroris HEχ (*-es* E): *om.* Tσs, edd. 5. *temporibus* T. 6. enim H: *om.* rell. orationi HE: oratori Tδ. 7. et iustissimi Hχ ed. Aldina: *et illustrissimi* Eσs: *illustrissimique* T. 8. *putarit* Heumann: *putavit* Bake.

iv. 13 *non* enim, si omnia non sequebatur, idcirco *non* erat ortus illinc. The MSS. give in Rab. Post. 33 quamdiu inimicissimus Gabinio fui *non* amicissimus mihi *non* Pompeius fuit, but there modern editors follow a conjecture (*nec* quamdiu . . . *non* am. mihi P. fuit). *Non* is here preferred to *nec* on account of the anaphora. Another interpretation of the double *non* here is given in Krebs-Allg. [ii. p. 144], sc. that the second *non* is repeated for emphasis after the parenthetical clause. If this explanation were adopted, it would of course be nceessary to omit *terroris*, sc. 'they do not, they *do not* assure us.'

1. **pro templis**: sc. those of Vesta, Castor, Concord, and Saturn. The last was occupied by Pompey (Ascon. 41), and the scene of the trial must have been in its neighbourhood. According to the Schol. Bob. *primo iudices consederunt in aede Saturni*, but this seems to be a misconception.

collocata: Cicero quotes this passage, de Opt. Gen. Orat. 10 exercitu . . . collocato; cf. Ascon. 31.

2. **terroris**: i.e. 'the sight of arms cannot fail to inspire fear in a speaker,' and so a man of peace. For the sense cp. *terret oculos* supr., § 71 *terrorem* inferre vobis; Quintil. viii. 3. 5 ferrum *adfert* oculis *terroris aliquid*. Quintilian's mind was saturated with reminiscences of Cicero, and he was doubtless thinking of this passage. It is probable that the writer of T found in his copy *terrores* (as in E), and omitted the word as unintelligible, see p. xl. Recent editors further bleed the sentence by cutting out *oratori* against all MSS. To me both words seem necessary to the sense. Cf. de Pet. Cons. 18 tamen adferunt *petitori* aliquid *dignitatis*. In an exordium, clearness is indispensable, cf. ad Herenn. i. 11. Dr. Reid, who with other editors omits both *terroris* and *oratori*, inserts *quo* after *aliquid*, and takes *ut in f. et in iud.* as a parenthesis, remarking that '*adferre aliquid quo* with a subjunct. is found elsewhere.' In the passages which he quotes *quo* idiomatically precedes *a comparative*, e.g. Fin. i. 72 nihil adferrent *quo iucundius* . . . viveremus. I add de Inv. ii. 132 nihil adferat causae, *quo minus*, &c. No instance of *quo* with the subjunct., *except* when a comparative follows, is quoted from Cicero.

5. **cederem tempori**: cf. Fam. iv. 9. 2 *tempori cedere*, id est, necessitati parere. A similar phrase is *cedere tempestati*, Dom. 68. Cf. pseudo-Phocylides, *γνῶμαι*, l. 121 *καιρῷ λατρεύειν μηδ' ἀντιπνέειν ἀνέμοισιν*.

nec enim: Roschatt, Act. Erl. 1884, p. 209, gives a number of instances to disprove the canon of Hand that *neque enim* is the proper form in a parenthesis.

7. **iustissimi**: for the corruption *illustrissimi*, which appears in all the MSS. except H, cf. Fam. xv. 4. 15 illas res gestas *illustriores* (Manutius, *iustiores* MSS.) et maiores putare, and Tyrrell ad loc.

8. **profecto**: this adverb always conveys the personal conviction of the speaker, i.e. = 'as I consider.' It does not assert that a thing is a fact: cf. Tusc. D. i. 85 utrum tandem a bonis an a malis discessisset? tum *profecto* videretur a bonis, i.e. 'as I conceive,' Fam. i. 9. 22 quae me moverunt, movissent eadem te *profecto*.

9. **tradidisset . . . dedere**: the preposition is changed in the second compound, thus producing a favourite kind of

nec sapientiae, temeritatem concitatae multitudinis auctoritate publica armare. Quam ob rem illa arma, centuriones, cohortes 3
non periculum nobis, sed praesidium denuntiant, neque solum ut quieto, sed etiam ut magno animo simus hortantur, nec auxilium modo defensioni meae, verum etiam silentium pollicentur. Reliqua vero multitudo, quae quidem est civium, tota nostra est, neque eorum quisquam, quos undique intuentes, unde aliqua fori pars adspici potest, et huius exitum iudici exspectantes videtis, non cum virtuti Milonis favet, tum de se, de liberis suis, de patria, de fortunis hodierno die decertari putat. Unum genus est adversum infestumque nobis, eorum, quos P. 2
Clodi furor rapinis et incendiis et omnibus exitiis publicis pavit; qui hesterna etiam contione incitati sunt, ut vobis voce praeirent quid iudicaretis. Quorum clamor si qui forte fuerit, admonere vos debebit, ut eum civem retineatis, qui semper genus illud hominum clamoresque maximos prae vestra salute neglexit.

4. *nec* H : *neque* rell. 5. verum : *sed* T. 12. pavit : *patuit* T. 14. si qui : *si quis* δ. 15. ut *om.* H. *illud genus* T. 16. prae HEχ : *pro* Tαs.

assonance. Cf. § 19 *oc*cidisset . . . *con*cidissent, § 34 *prod*est . . . *ob*est, § 55 *ex*pediti . . . *im*pedimentis.

4. **nec aux.** : cf. § 29 *n.* for the variants *nec* and *neque*.

5. **silentium** : a bitter reference to the disorder, which the *Clodiani* were allowed to indulge in, when he actually rose to speak.

6. **civium** : Cicero insinuates that the supporters of Clodius were slaves. This of course was an exaggeration. He uses the word *servi* for rhetorical purposes of freedmen elsewhere in the speech, e. g. § 89.

9. **favet** : regularly used of the sympathy felt by onlookers with an athlete, or actor, or competitor, e. g. Rosc. Com. 29 quem *favorem* secum in scenam attulit Panurgus, Verg. Aen. v. 343 tutatur *favor* Euryalum.

11. **genus . . . eorum** : cf. Cat. ii. 18 unum *genus* est *eorum* qui . . , Quir. 20, Off. i. 119, &c.

12. **furor** : a party-expression used by the *boni* to designate their opponents, cf. §§ 27, 32. Similar terms are *amentia* § 12, and *insania* § 22, the verbs *furere*, e. g. § 26, and *insanire*, Rosc. Am. 33, and the adjectives *furiosus* § 14, and *insanus* § 45. The optimates described themselves as *sani*, e. g. Sest. 97, and used *sanare* of the 'healing measures' they adopted, e.g. Dom. 12, Fin. iv. 66. Cicero is fond of metaphors drawn from this 'political surgery,' e. g. Att. iv. 3. 3, Sest. 135, Dom. 12.

pavit : i. e. like beasts. The word is primarily used of feeding animals, and then by a natural metaphor of slaves, e. g. Juv. iii. 141. We may compare the use of *canis* for a hanger-on, e. g. Att. vi. 3, 6 P. Clodi *canis*; Verr. iii. 28 *canum*, quos tribunal meum vides lambere.

13. **hesterna . . . contione** : so Ascon. 41, and on §§ 3, 71. The speech was made on the evening before the *summus iudici dies*, in order to intimidate the jurors on the morrow.

praeirent, 'dictate,' t. t. of reciting a formula for repetition, especially of a priest, e. g. matribus familias . . . Caesar Augustus *praeit* in haec verba, 'Juno regina,' &c., Acta Lud. Saec. *l.* 123, cf. Liv. xxxix. 18 ex carmine sacro *praeeunte verba* sacerdote, Dom. 133, &c. The formula on this occasion is 'non est fas intueri lucem,' &c. Similar uses are of a judge who 'instructs' a jury, e. g. Ascon. on § 32 *praecibat* iudicibus . . . ut quaereretur cui bono fuisset, or of a schoolmaster, who dictates a lesson, e. g. Quintil. i. 2. 12.

16. **prae**, 'as compared with,' cf. de Off. iii. 47 *prae* honestate contemnitur : *pro* would mean 'on behalf of.' The words are continually confused in MSS., e. g. § 105, and Flacc. 67.

4 Quam ob rem adeste animis, iudices, et timorem si quem habetis deponite. Nam si umquam de bonis et fortibus viris, si umquam de bene meritis civibus potestas vobis iudicandi fuit, si denique umquam locus amplissimorum ordinum delectis viris datus est, ut sua studia erga fortes et bonos cives, quae vultu et verbis saepe significassent, re et sententiis declararent, hoc profecto tempore eam potestatem omnem vos habetis, ut statuatis, utrum nos, qui semper vestrae auctoritati dediti fuimus, semper miseri lugeamus, an diu vexati a perditissimis civibus aliquando
5 per vos ac per vestram fidem virtutem sapientiamque recreemur. Quid enim nobis duobus, iudices, laboriosius, quid magis sollicitum, magis exercitum dici aut fingi potest, qui spe amplissimorum praemiorum ad rem publicam adducti metu crudelissimorum suppliciorum carere non possumus? Equidem ceteras

2. de bonis . . . umquam *om.* H. 3. vobis *del.* Bake. 5. erga . . . cives *del.* Lange. 11. duobus *om.* T. 12. *exercitatum* E. 14. equidem TE: *et quidem* Hδ.

1. **adeste animis**, 'be of good courage.' Cf. Rep. vi. 10 *ades animo et omitte timorem*, a rare use of the phrase. *Adesse animo* generally means to give one's attention, e. g. Sull. 33.

3. **vobis**: Cicero addresses Pompey's special *iudices* as if they were a permanent body, since though the same individuals had not previously sat together, the classes from which they were taken remain the same. Bake, who omits *vobis*, wishes to draw a contrast between previous practice and the present occasion, but the excision is harsh. Cf. Sen. 3 *vobis potestas decernendi* non est permissa.

4. **amplissimorum ord.**: the epithet is properly used of senators. Cf. § 90 templum *amplitudinis*, and § 5 *amplissimorum* praemiorum of the higher magistracies. Cicero flatters the 'equites' and 'tribuni aerarii' by extending to them the attributes of the senators, e. g. infr. *vestrae auctor.* The *iudices* are continually coupled with or identified with the Senate, e. g. Flacc. 104, Fam. viii. 14. 3 *senatum quique res iudicant.*

5. **erga fortes et bonos**: these words have been needlessly suspected. The repetition is intentional to emphasize the point, cf. § 29 *servos . . . servi Milonis.* The chiastic arrangement *bonis . . . fortibus . . . fortes . . . bonos*, and the substitution of *cives* for *viros* prevent monotony.

vultu . . . declararent: cf. Fam. i. 9. 17 non solum fronte atque *vultu . . . declarant* sed etiam *sententia* saepe iam tabellaque docuerunt.

10. **sapientiamque**: for the idiomatical use of *-que* to connect the last two points in a triple enumeration, see Madv. 434. 1 and § 91 *n.*

11. **nobis duobus**: Cicero identifies himself with his client, as in § 100 sq. Cf. Quintil. vi. 1. 24. For the phrase cf. Fam. vii. 10. 4 nihil *duobus nobis* est stultius; de Or. i. 38; Brut. 148, 207, 266; Clu. 127; Leg. ii. 14, &c. Garatoni approves of the reading in T, where *duobus* is omitted, probably by a slip [cf. § 2 *n.*], in which case *nobis* would refer to the optimates in general.

12. **exercitum**: the variant *exercitatum* according to classical usage would = 'experienced' [Reid].

14. **suppliciorum**: i. e. exile, which Cicero had experienced, and which threatened Milo. The orators spoke of the *deminutio capitis* resulting from exile in terms only applicable to the loss of life. Cf. Flacc. 95 quam potestis P. Lentulo . . . mactare victimam gratiorem qui si L. Flacci *sanguine* illius . . . odium saturaveritis. So in this speech § 7 *intueri lucem*, § 31 *iugulari a vobis*, § 59 *mors*, § 68 Milonis *clade*, § 80 *ad supplicium rapi.* The exaggeration seems frigid to us, but a Roman jury was very squeamish about the *caput* of a citizen, see p. xvi. The acme of exaggeration is to be found

tempestates et procellas in illis dumtaxat fluctibus contionum semper putavi Miloni esse subeundas, quia semper pro bonis contra improbos senserat; in iudicio vero et in eo consilio, in quo ex cunctis ordinibus amplissimi viri iudicarent, numquam existimavi spem ullam esse habituros Milonis inimicos ad eius non modo salutem exstinguendam, sed etiam gloriam per tales viros infringendam. Quamquam in hac causa, iudices, T. Anni tribunatu (rebusque omnibus pro salûte rei publicae gestis) ad huius criminis defensionem non abutemur. Nisi oculis videritis

2. *Miloni putavi*. Quintil. viii. 6. 8. 4. cunctis : *co nunriis* H. 8. rebusqne HEχ : *rebus* Tσs.

Rab. Perd. 11, where Cicero speaks as if Rabirius were to be crucified in the Forum (Heitland, p. 38), while it appears probable that the only penalty which threatened Sex. Roscius was the usual one in a trial *inter sicarios* [Zumpt, p. 457 sq.]. If so, it is not surprising that in later life Cicero looked upon the celebrated passage on the punishment of the parricide as somewhat too florid, Orat. 107.

carere: 'be free from,' cf. Rosc. Am. 144, Rab. Post 17. This sense of the word does not fall under Cicero's definition, Tusc. D. i. 88 *carere* hoc significat, *egere eo, quod habere velis*.

equidem: Jordan [Krit. Beitr. p. 314 sqq.] has a valuable discussion of this word 'It is especially used to lay emphasis upon the personal views of the speaker. Cicero employs it only with the 1st pers. sing. and it is most frequent in the language of conversation. Thus it is rare in the philosophical writings and most common in the letters to Atticus.' The confusion with *et quidem* in MSS. is constant : for the latter phrase in the sense of 'and that too,' cf. Planc. 87, Phil. vii. 5 and xi. 9, and RH. n. 429.

1. **fluctibus contionum**: Cicero is fond of this metaphor, e.g. Mur. 35. The passage is quoted by Quintil. viii 6. 48, as an example of one in which some of the words are used in a metaphorical and others in a literal sense, 'nisi adiecisset *dumtaxat fluct. contionum* esset allegoria : nunc eam miscuit.'

3. **senserat**: the verb is frequently used of political sympathies, e.g. Rosc. Am. 142 fateor me errasse . . . qui cum illis *senserim*, tametsi inermis, iudices, *sensi*. In Fam. i. 9. 17 non offendes eundem bonorum *sensum*, Lentule, quem reliquisti, qui confirmatus consulatu nostro . . . interruptus, adflictus . . . recreatus . . . derelictus, &c. *sensus* appears to mean 'party' or 'policy.'

4. **cunctis**: i. e. senators, equites, and trib. aerarii, the latter representing the less privileged classes of the community. Reid suggests *coniunctis*, which is pointed to by the corruption in H; but the variant, sc. *coniunctus* for *cunctus*, is not an uncommon one, cf. Verr. iv. 145.

5. **spem . . . ad**: the only parallel quoted is Att. xv. 20. 2 tantum *spei* habere *ad vivendum*. Guttmann [p. 10] thinks that the usage may be a colloquial one.

6. **salutem**: t. t. for the *caput* or *incolumitas* of a *civis*, so § 39 restitutor *salutis meae*. The citizen in full enjoyment of his privileges is *salvus*, or *incolumis* : while loss of rights is *calamitas*, and the penalized person *calamitosus*.

9. **nisi . . . adsignetis**: these words contain a complete plan of the speech. His *constitutio causae* as given, §§ 23, 31, will be 'uter utri insidias fecerit.' He will not like Brutus (Ascon. 42) base his defence on the plea that, although murder was really committed, the evil was redeemed by the good to the state—*qualitas compensativa*—nor will he take refuge in *deprecatio*, which is hardly appropriate in judicial proceedings, ad Herenn. i. 24. These form his second line of defence, *extra causam*. In §§ 72–82 he argues the case after the manner of Brutus, and in §§ 83–91 takes up the point suggested here by *populi Rom. felicitati*, sc. that a special providence was at work. Finally § 92 sq., he resorts to *deprecatio* or an appeal for mercy, not to Milo, but to himself.

After the halting beginning he ventures

insidias Miloni a Clodio esse factas, nec deprecaturi sumus ut crimen hoc nobis propter multa praeclara in rem publicam merita condonetis, nec postulaturi ut, quia mors P. Clodi salus vestra fuerit, idcirco eam virtuti Milonis potius quam populi Romani felicitati adsignetis. Sin illius insidiae clariores hac luce fuerint, tum denique obsecrabo obtestaborque vos, iudices, si cetera amisimus, hoc nobis saltem ut relinquatur, vitam ab inimicorum audacia telisque ut impune liceat defendere.

3 7 Sed antequam ad eam orationem venio, quae est propria vestrae quaestionis, videntur ea mihi esse refutanda, quae et in senatu ab inimicis saepe iactata sunt et in contione ab improbis et paulo ante ab accusatoribus, ut omni errore sublato rem plane, quae veniat in iudicium, videre possitis. Negant intueri lucem esse fas ei, qui a se hominem occisum fateatur. In qua

1. esse HE: *om.* Tδ. 3. quia Hsχ: *si* TEσ. 5. sin HEs: *sed si* Tσχ. 7. nobis saltem HTs (*vobis* T.): *saltem nobis* Eσχ. vitam *hoc loco* HEs, *post* telisque Tσ. 9. orationem: *rationem* T. 10. vestrae: *nostrae* δ. mihi Hs: *om.* TEσχ. et in: *om.* et Tδ. *saepe ab improbis* E. 12. errore Hsχ: *terrore* TEσ. 14. esse fas HE: Quintil. v. 11. 12: *fas esse* Tδ. occisum σ, Quintil. iv. 2. 25 vett. edd.; *esse occisum* Hs; *occisum esse* TE, Quintil. v. 11. 12, *voc.* esse *ante* hominem *add.* Rufinianus.

upon a bolder style, and employs some *lumina orationis*. Quintil. notices the ὁμοιοτέλευτα in exstingu*endam* . . . infring*endam* [ix. 3. 77]; the same device is employed with effect in deprec*aturi* . . . postul*aturi* . . . condo*netis* . . . adsig*netis*.

3. **quia**: the variant *si* is the rarer idiom, and therefore attractive. *Quia*, however, seems more emphatic, as stating that such is actually the case, whereas *si* is hypothetical. Compare e. g. Tusc. D. ii. 8 nec, *si* id ipsi minus consequi possumus, *idcirco* minus id ita faciendum esse sentimus, where no assertion is made, with e. g. Brut. 141 *quia* praestat omnibus Demosthenes, *idcirco* a doctis oratorum est princeps iudicatus. *Quia* may have been changed to *si* by a scribe who thought that it ought not to take the subjunctive. Both phrases are considered examples of pleonasm by Hellmuth, p. 158, cf. § 30 *sicuti . . . ita*.

5. **sin**: for *nisi . . . sin* cf. Planc. 3; *sed si*, retained by Müller, is an obvious gloss.

9. For the treatment of these *praeiudicia* see p. li. Cicero does not object to *praeiudicia* when they favour his case, e. g. Clu. 7.

antequam: 'after this word Cicero often has the indic. pres., rarely the future perfect, never the future (which is found in Plautus and Terence) and probably never the impf. and plupf.' [Reid].

orationem . . . quaestionis: cf. de Or. ii. 114.

10. **mihi**: the addition of this word from H, as Garatoni points out, removes the unpleasing hiatus in the ordinary reading *ea esse*. On the subject of hiatus in prose see Orat. 150 sq.

12. **omni errore sublato**: the same phrase occurs Clu. 83, Rep. ii. 18. *Terrore* is a perverse alteration. The fears of the jurors have been already dispelled and the orator is arguing against a misconception.

13. **quae veniat in iudicium** = the Greek *τὸ κρινόμενον*. In ad Herenn. i. 26 the term *iudicatio* is used. Cicero, Top. 95, prefers qua de re agitur: de Or. i. 139 he says, quod in controversiam venit.

intueri lucem: cf. § 5 suppliciorum, *n.*

14. **occisum fateatur**: I omit *esse* with several old editors, the various order in in H and TE being suspicious. For the omission see Kühnast, p. 277. The statement here made resembles that in de Or. ii. 105 *de sicariis infitiari necesse est.*

tandem urbe hoc homines stultissimi disputant? nempe in ea, quae primum iudicium de capite vidit M. Horati, fortissimi viri, qui nondum libera civitate tamen populi Romani comitiis liberatus est, cum sua manu sororem esse interfectam fateretur. An est quisquam qui hoc ignoret, cum de homine occiso quaeratur, aut negari solere omnino esse factum aut recte et iure factum esse defendi? nisi vero existimatis dementem P. Africanum fuisse, qui cum a C. Carbone tr. pl. seditiose in contione interrogaretur, quid de Ti. Gracchi morte sentiret, responderit iure caesum videri. Neque enim posset aut Ahala ille

1. *disputant. obiciunt.* H: *obiciunt* σ. *in contione seditiose* Tσχ; *seditiosa* E. F. Eberhard. *om.* Quintil. v. 11. 6. 8. tr. pl. seditiose *del.* Bake: 9. *respondit* δ. 10. aut

2. **de capite,** sc. for *perduellio.* Cf. Liv i. 26.

M. Horati: so Val. Max. viii. 1. 1. Livy calls him *P.* Horatius.

3. **libera . . . liberatus**: Cicero chooses the verb, in order to produce an assonance with *libera,* although there is no connection of idea. Such collocations are common in Cicero; sometimes they may be due to carelessness, e. g. § 22 *quaestioni . . . quaesivit,* § 53 *versabatur . . . adversarii*; Fam. vii. 7. 2 *sin* autem *sine* Britannis; Att. ix. 9. 4 quantum in *solo solere* quaerere neque *solum,* but more frequently they are intentional (cf. Orat. 84 immutatione litterae quaesitae venustates). In this speech we have § 91 *facibus . . . fascibus,* § 94 *optuli . . . opitulari,* § 105 *miseram . . . amiserit.* Similar cases abound in Cicero, e. g. Clu. 185 *neminem nominari*; Pis. 94 *invitum invitabis*; Sest. 78 *sanguine saginantur*; Fam. iii. 7. 6 *officiis meis efficiam.* Assonance, together with alliteration, was a characteristic of early Latin poetry, especially that of Ennius. Thus in Cicero's quotations from him we have such collocations as, numquam *era errans,* Cael. 18; *urbe orba* sum, Orat. 93; *mulier melior* mulierum, Div. i. 66. The influence of Ennius upon Cicero's style was pointed out by Seneca [*ap.* Aul. Gell. xii. 2. 6] and this use of assonance as an ornament is probably prompted by him. Cicero's facility in punning naturally made him partial to it. The same device is not unknown to later poets, e. g. Ovid, Met. iii. 487 *sole* tepente *solent*; v. 390 Tyrios *humus umida* flores, instances pointed out to me by Mr. S. G. Owen.

comitiis: i. e. *curiatis.* Mommsen supposes that the transference of appeals to the *centuriata* took place after the expulsion of the kings. We are told, Rep. ii. 54, that the existence of *provocationes* in the regal period was attested by the books of the pontifices and augurs.

8. **tr. pl. seditiose**: Bake, generally a very acute critic, wished to expel these words on the grounds, (i) that it was not usual in a legal speech to add the rank of a magistrate, except for the sake of clearness, or emphasis, and (ii) that *seditiose . . . interrogare* was unusual Latin. He thought that the words were due to a scholium, *tr. pl. seditioso.* Carbo's rank is similarly given, de Or. ii. 105 Carboni *tribuno plebis . . .* interroganti responderat, which in view of Cicero's tendency to repeat himself is a sufficient defence, while *seditiose* seems naturally used: cf. contionibus *seditiose* concitatis, Clu. 2, 95, passages which favour the text against *seditiosa,* the conjecture of Eberhard. Cicero hardly ever mentions Carbo, without referring to his *seditio,* e. g. Leg. iii. 35. 42.

10. **iure caesum**: Vell. Pat. ii. 4. 4 gives his reply in a more guarded form, '*si* is occupandae rei p. animum habuisset, iure caesum.' Cf. Off. ii. 43.

Ahala . . . Servilius: Momms. i. 301. When the *praenomen* is omitted, Cicero's custom is to put the *cognomen* before the *nomen*; cf. Tyrrell on Fam. ii.

Servilius aut P. Nasica aut L. Opimius aut C. Marius aut me consule senatus non nefarius haberi, si sceleratos cives interfici nefas esset. Itaque hoc, iudices, non sine causa etiam fictis fabulis doctissimi homines memoriae prodiderunt, eum, qui patris ulciscendi causa matrem necavisset, variatis hominum sententiis non solum divina, sed etiam sapientissimae deae sententia liberatum. Quod si duodecim tabulae nocturnum furem quoquo modo, diurnum autem, si se telo defenderet, interfici impune voluerunt, quis est qui, quoquo modo quis interfectus sit, poeniendum putet, cum videat aliquando gladium nobis

1. *c. p. Nasica* H. aut C. Marius *om.* Quintil.: aut C. *om.* H. 2. non *om.* H. cives *om.* Quintil. 3. etiam *om.* σχ. 6. divina Hδ Quintil. codd. plerique: *divinae* TE. Quintil. cod. A. 8. defenderet TEσχ: *defenderit* Hs. 10. poeniendum W, Lambinus: *puniendum* rell. gladium nobis TEδ, Quintil. v. 14. 18: *nobis gladium* H, Lambinus.

8. 3. Ahala is called *C.* in Catil. i. 3, Cato M. 56, but Dom. 86 the MSS. give *M.* as his praenomen.

1. **P. Nasica**: i. e. P. Scipio Nasica, also termed P. Scipio Catil. i. 3. See Momms. iii. 194.

L. Opimius: Momms. iii. 127.

C. Marius: Momms. iii. 214. Cf. Rab. Perd. 20. The instances here given formed a favourite topic of Cicero, e. g. Catil. i. 3, 4, Rep. i. 6.

me consule senatus: Cicero persistently tries to throw the responsibility of his action as consul upon the senate which advised him, e. g. Phil. ii. 18 comprehensio sontium mea, *animadversio senatus* fuit. For the illegality of this contention see Mommsen, iv. 178. Cicero was, however, highly indignant, when Brutus, in his Cato, took a similar view of his action, me . . . laudat, quod rettulerim, non, quod . . . ante quam consulerem, *ipse iudicaverim* (Att. xii. 21. 1).

3. **fictis fabulis**: sc. 'legends,' cf. Verr. iii. 182 vetera exempla pro *fictis fabulis* iam audiri, Fin. i. 65, v. 51, Off. iii. 39. The phrase is used in a different sense § 42.

4. **doctissimi**: i. e. poets, cf. Tusc. iv. 71 homines *doctissimi* et summi *poetae*.

5. **necavisset**: Cicero generally prefers the syncopated forms, but occasionally has an unsyncopated one, e. g. § 79 liber*avisset*, § 80 nec*averunt*, in order to produce a favourite rhythm. He says, Orat. 157 in hoc genere et plenum verbum recte dici et imminutum usitate. So Quintil. ix. 4. 59 utrum volet sumat compositio, *vitavisse* vel *vitasse*. In this passage the unsyncopated form is attested by Quintil. v. 11. 18, as well as by our MSS.

hominum: Cicero agrees with Aeschylus, who represents the Areopagus as trying the case under the presidency of Athene. A different legend is given in Demosth κατ' Ἀριστοκράτους, p. 641 δικάσαι δὲ Εὐμενέσι καὶ Ὀρέστῃ οἱ δώδεκα θεοί.

7. **quod si**: Krebs-Allg. lay down the rule that this collocation should not be treated as forming one word, quoting e. g. Prop. ii. 1. 17 *quod* mihi *si*, where the words are separated.

duodecim tabulae: cf. Bruns, Fontes Jur. Rom. p. 30.

8. **quoquo modo**: 'in whatever manner presents itself'; cf. Verr. v. 38, and Tyrrell on Fam. ix. 16. 1.

defenderet: the variant *defenderit* is capable of defence, as a quotation from the law cf. Tull. 52. As, however, MSS. are very unreliable in such matters, I follow the regular sequence. Cf. §§ 44, 86.

9. **quis . . . qui, quoquo . . . quis**: for the jingle of relatives cf. Reid on Ac. i. 6 *quam quibusnam quisquam*. Cicero seems to have been fond of repetitions of the letter *q-*. Cf. § 22 *n.*

10. **poeniendum**: this ancient spelling is reported from the Werdensis by Fabricius, who says, 'in vetusto *poeniendum*, *poenitor* (§ 35), *poenitus* (§ 33) passim scribitur.' Müll., who elsewhere in this speech gives *poen-* from MSS. indications, e. g. §§ 19 *bis*, 85, here prints *pun-*.

ad hominem occidendum ab ipsis porrigi legibus? Atque si tem- 4
pus est ullum iure hominis necandi, quae multa sunt, certe illud
est non modo iustum, verum etiam necessarium, cum vi vis
illata defenditur. Pudicitiam cum eriperet militi tribunus mi-
litaris in exercitu C. Mari, propinquus eius imperatoris, inter-
fectus ab eo est, cui vim adferebat: facere enim probus adu-
lescens periculose quam perpeti turpiter maluit. Atque hunc
ille summus vir scelere solutum periculo liberavit. Insidiatori 10
vero et latroni quae potest inferri iniusta nex? Quid comitatus
nostri, quid gladii volunt? quos habere certe non liceret, si uti
illis nullo pacto liceret. Est igitur haec, iudices, non scripta,
sed nata lex, quam non didicimus, accepimus, legimus, verum
ex natura ipsa adripuimus, hausimus, expressimus, ad quam

1. ad hominem occidendum *om.* Quintil., Diomedes [i. 469 K.]. Julius Victor, p. 420. 8. *sceleris* H. 12. verum HE: *verum etiam* Tδ. 13. hausimus *om.* T.

1. **ad hominem occidendum**: these words seem necessary to the sense. They occur in the lemma of the Schol. Bob., as well as in our MSS. Quintilian, quoting loosely, as so often, omits them, and his faulty quotation was reproduced by Julius Victor, who was a mere epitomizer, and Diomedes. A comparison of this passage with §§ 41 and 30 shows that later grammatical and rhetorical writers took their quotations out of Quintilian, instead of consulting a MS. of the author.

3. **vi vis**: so § 30 *vi victa vis*. Similar alliterations in this speech are, of *v-*, § 67 *viri vires*, § 69 *vides . . . varia vitae . . . vaga volubilis*; of *f-*, § 42 *fictam fabulam . . . fragile . . . flexibile*. Cf. § 77 *leges libertas, pudor pudicitia*. Alliteration was a favourite ornament of the early poets, and was used to give a poetical colouring to prose. Cf. § 7 *n.* Cicero resorts to this device chiefly in his youthful speeches, when under Asiatic influences, but it is sufficiently common in the later ones. Cf. Straub, pp. 131–5: Guttmann, p. 37: Kühnast, p. 330.

4. **tribunus militaris**: C. Lusius, a nephew of Marius. The Schol. Bob. says the soldier was named either P. Trebonius, or Arruntius. Quintil. iii. 11. 14 gives the latter name, while Valer. Max. vi. 1. 12 calls him C. Plotius. The story is told Plut. Mar. 14, and formed a commonplace in the schools of rhetoric, e. g. de Invent. ii. 124, and Quintil. l. c.

8. **periculo**: t. t. of a *reus* in a criminal case. Cf. § 68 defensum in *periculo capitis*: Quintil. vi. 1. 36 de . . . *reis* sum locutus, quia in *periculis* maxime versatur adfectus, and Landgr. on Rosc. Am. 85.

9. **nex**: the elaborate calculations of Wüst clearly show that Cicero in general avoided a monosyllable at the end of a sentence, just as poets did at the end of a verse. Excluding forms of *sum*, which coalesce with the preceding adjective or participle, he finds only twenty-four cases in eighteen speeches, in all of which the collocation is chosen for the sake of emphasis (p. 41). Cf. § 36 non arma, non *vim*? The nom. *nex* is rare, but is given by all edd. ad Herenn. iv. 31.

11. **non scripta**: cf. Leg. i. 19 ante *nata* est, quam *scripta lex*, ib. ii. 10 non . . . incipit lex esse, cum *scripta est*, sed tum, cum *orta* est: orta autem est simul cum mente divina. Cicero quotes the whole sentence with some complacency, Orat. 165, as an example of *concinnitas*, or sustained antithesis. The master of this style he says was Gorgias. The construction of *ad quam* with *docti* and *imbuti* is rare, but not without parallels. Reid compares for the first, *erudiri ad*, Font. 43, Imp. Pomp. 28, and for the second, a passage from Cic. Hortensius [ap. Nonium, p. 521], *ad* sapientiam concipiendam *imbui*.

12. **didicimus . . . legimus**: cf. Sest. 139 haec audivimus . . . haec accepimus, haec legimus.

non docti sed facti, non instituti sed imbuti sumus, ut, si vita nostra in aliquas insidias, si in vim et in tela aut latronum aut inimicorum incidisset, omnis honesta ratio esset expediendae salutis. Silent enim leges inter arma nec se exspectari iubent, cum ei, qui exspectare velit, ante iniusta poena luenda sit quam
11 iusta repetenda. Etsi persapienter et quodam modo tacite dat ipsa lex potestatem defendendi, quae non hominem occidi, sed esse cum telo hominis occidendi causa vetat, ut, cum causa, non telum quaereretur, qui sui defendendi causa telo esset usus, non hominis occidendi causa habuisse telum iudicaretur. Quapropter hoc maneat in causa, iudices; non enim dubito quin probaturus sim vobis defensionem meam, si id memineritis, quod oblivisci non potestis, insidiatorem interfici iure posse.

5 Sequitur illud, quod a Milonis inimicis saepissime dicitur,
12 caedem, in qua P. Clodius occisus esset, senatum iudicasse contra rem publicam esse factam. Illam vero senatus non sententiis suis solum, sed etiam studiis comprobavit. Quotiens enim est illa causa a nobis acta in senatu! quibus adsensionibus uni-

4. iubent TEσ; Quintil. v. 14. 8: *volunt* Hsχ. 7. non H, Lambinus: *non modo* rell. *Mire Müller* 'modo *om. dett. codd.*' 11. dubito: *iudico* T. 13. interfici iure HE, *iure interfici* Tδ. 14. saepissime: *saepe* Bake. 15. in *om.* δ. esset H, Bake: *est* rell.

4. **silent**: cf. Plut. Mar. 28 *εἰπεῖν ὅτι τοῦ νόμου διὰ τὸν τῶν ὅπλων ψόφον οὐ κατακούσειεν.*

iubent: the variant *volunt* is attractive, since the repetition of a word in a different sense is a feature of Cicero's style. Cf. § 21 *possunt . . . possumus*, § 44 *dubitaret . . . dubitare*. Also *volo* and *voluntas* are idiomatically used of the object of a law, e. g. § 9 supr. Off. iii. 23; Verr. iii. 193; de Invent. i. 56, ii. 138; Dig. 46. 1. 46. That *iubent* is supported by Quintil. is not in itself conclusive, cp. § 1. On the other hand, *volunt* may be a slip due to *velit* in the next line, and *volunt* supr.

7. **non . . . sed**: cf. § 31 *non* occisusne sit . . . *sed* iure an iniuria, § 39 *non* de impunitate eius *sed* de praemiis cogitaretur, de Orat. ii. 106 res *non* sit necne, *sed* qualis sit quaeritur. 'The law does not forbid homicide (i. e. *sine dolo malo*) but intent to kill.' The variant *modo* is due to a familiar interpolation, arising from ignorance of the construction. Cf. in the previous section the intrusion of *etiam* after *verum* in T, Cobet, Mnem. 1879, 114, Tyrrell on Fam. ix. 16. 6. *Modo* produces a more complicated sense, and has therefore found defenders among those who rejoice in subtle interpretations, sc. 'the law not only forbids homicide, but also intent to kill.' This statement may be more truthful, but the previous one is more rhetorical. The words of the *lex Cornelia* are 'qui cum telo ambulaverit hominis necandi furtive faciendi causa hominemve occiderit, cuiusve id dolo malo factum erit,' Bruns, p. 91: where to *occiderit* must be supplied *dolo malo*.

8. **esse cum telo**: i.e. to carry arms. Cf. § 66, Pliny, N. H. xxxiv. 14. 39, Ac. ii. 79.

11. **maneat**: cf. Div. i. 38 modo *maneat* id, quod negari non potest.

15. **caedem, in qua**: the sen. cons. said *caedem P. Clodi*, i. e. the act of Milo. Cicero twists the words, in order to include both of the parties in the fray.

esset: the subjunctive is necessary, since the words are a quotation from the sen. cons. The correction was originally made by Bake from conjecture.

16. **illam**: sc. *occisionem Clodi*.

versi ordinis, quam nec tacitis nec occultis! Quando enim frequentissimo senatu quattuor aut summum quinque sunt inventi, qui Milonis causam non probarent? Declarant huius ambusti tr. pl. illae intermortuae contiones, quibus cotidie meam potentiam invidiose criminabatur, cum diceret senatum non quod sentiret, sed quod ego vellem decernere. Quae quidem si potentia est appellanda potius quam propter magna in rem publicam merita mediocris in bonis causis auctoritas aut propter hos officiosos labores meos non nulla apud bonos gratia, appelletur ita sane, dum modo ea nos utamur pro salute bonorum contra amentiam perditorum. Hanc vero quaestionem, etsi non 13
est iniqua, numquam tamen senatus constituendam putavit; erant enim leges, erant quaestiones vel de caede vel de vi, nec tantum

1. enim: *etiam* Ernesti; *quidem* Heine. 2. aut summum HE: *ad summum* Tδ: *summum* del. Lange. 5. quod: *quae* H, ipse *post* quod *inser.* Kraffert. 8. aut *om.* H. 11. *contratavit* T, *om.* amentiam . . . pu.

1. **enim**: the repeated *enim* after *quotiens enim* has given offence. The clauses, however, are not parallel ones, since *quotiens enim* is exclamatory, while *quando enim* is interrogative. Cf. Tusc. D. ii. 58, Ac. ii. 108. In Nat. D. i. 16 tres *enim* trium disciplinarum principes convenistis; M. *enim* Piso si adesset nullius philosophiae . . . vacaret locus, Müll. reads M. *autem* Piso, and a similar alteration might be suggested here. The confusion of *enim* and *autem* is not uncommon in MSS. See RH., p. 284.

2. **summum**: cf. § 26, Quinct. 78, Verr. ii. 129. The corruption *ad* for *aut* is a variant in other passages, due to ignorance of the construction. Lange strangely suspects *summum*.

3. **declarant**: for the ellipse of *id* cf. Phil. v. 43 non enim omnibus Sullae causa grata. *Declarat* multitudo proscriptorum, ib. xii. 24, Ac. ii. 16.

ambusti: Ascon. says of T. Munatius Plancus and Q. Pompeius Rufus that they went on haranguing until they were driven away by the flames. Plancus is here singled out by Cicero as the 'singed' or 'roasted' tribune. The term is specially appropriate, since *ardere* is often used of a seditious tribune, e. g. Sest. 116 in illo *ardenti* tribunatu. It also suggests the coming trial and condemnation of Plancus; cf. Liv. xxii. 35. 2 damnatione collegae et sua prope *ambustus*; ib. 40. 1 se populare incendium . . . *semustum* effugisse; Har. Resp. 4 *ambustum* religiosissimis *ignibus* ex domo pontificis maximi emissum.

4. **intermortuae**: i. e. 'dead-alive.' *Inter* in this and similar words, e. g. *interaresco*, as in Tusc. D. v. 10 nihil *interarescere*, nihil exstingui, is said to signify the 'breaking of continuity, especially by death,' Roby, 1999. For the word cf. Att. i. 14. 4, Mur. 16, Pis. 16. In Att. ii. 19. 3, cum venisset *mortuo* plausu, I would read *intermortuo*, the conjecture of Orelli. Cf. also Sest. 126 *semivivis* vocibus.

potentiam: a taunt frequently levelled at Cicero, as browbeating the senate. Cf. Att. i. 16. 10 quousque . . . hunc *regem* feremus; Sull. 22 me tertium peregrinum *regem* esse dixisti.

5. **quod sentiret**: the insertion of *ipse*, as proposed by Kraffert, is in conformity with Ciceronian idiom: cf. de Or. ii. 41 neque sane quid *ipse sentiret*, sed quid *ab aliis* diceretur ostendit; ib. iii. 67; Div. i. 11.

7. **propter . . . aut propter**: I prefer to read *aut* once, since *aut* . . . *aut* are idiomatically used to denote two mutually exclusive alternatives, e. g. N. D. i. 70 *aut* etiam *aut* non: Fat. 19 *aut* verum *aut* falsum. Halm, feeling the difficulty, remarked that *vel* . . . *vel* might here have been used. See Madvig, 436.

13. **leges**: sc. lex Cornelia Sullae de

maerorem ac luctum senatui mors P. Clodi adferebat, ut nova quaestio constitueretur. Cuius enim de illo incesto stupro iudicium decernendi senatui potestas esset erepta, de eius interitu quis potest credere senatum iudicium novum constituendum putasse? Cur igitur incendium curiae, oppugnationem aedium M. Lepidi, caedem hanc ipsam contra rem publicam senatus factam esse decrevit? Quia nulla vis umquam est in libera civitate suscepta inter cives non contra rem publicam—
14 non enim est ulla defensio contra vim umquam optanda, sed non numquam est necessaria,—nisi vero aut ille dies, quo Tiberius Gracchus est caesus, aut ille, quo Gaius, aut arma Saturnini,

2. incesto stupro: *incestu stupro* Schol. B; stupro *del.* Rau [i. 193]. 3. senatui: *sibi* Garatoni. 9. ulla Hs: *illa* TEσχ. 10. dies, quo H: *dies,in quo* TEδ. 11. arma H. Madv. Op. Ac. i. 153; *quo arma* TEδ, *ille, quo arma* Novák.

sicariis et veneficis, *circ.* 81 B.C., and lex Plotia de vi, prob. 89 B.C. For the contents of the latter cf. Wächter in Orelli's Onom.

13. p. 11. **quaestiones**: sc. *inter sicarios*, and *de vi*.

1. **maerorem ac luctum**: for the meaning of the words cf. § 20 *n.* It is characteristic of Latin to strengthen the conception of grief by the use of two synonyms. Cf. Att. i. 16. 3 *maesti et maerentes*, and Tyrrell, ad loc.

2. **incesto stupro**: Cicero represents the act of Clodius as a *duplex crimen*, *incesto* referring to the Bona Dea, and *stupro* to Pompeia. Cf. Dig. 48. 18. 5. He continually calls the offence of Clodius *stuprum*, e. g. Har. Resp. 33, 38, 44. The conjecture of Rau, who, from the Schol. Bob., would read *incestu*, and cut out *stupro* as a gloss, is attractive, since *incestu* would exactly balance *interitu*. Also the passages quoted for the vulgate are themselves not quite certain: thus Har. Resp. 4 ex *incèsto stupro* . . . emissum, GE. give *incestu* and *stupro* is *sup. lin.* in G, while Dom. 105 *incesto* flagitio *et stupro*, G. omits *et stupro*. So, de Aere al. iii. 2 nihil de *incestis stupris* questus es, the MS. gives *incestus stupris*. However, the text of the Scholiast is too corrupt to base a conjecture upon, and the confusion of these words is constant.

3. **iudicium decern.**: for the facts see Att. i. 16. The senate had wished the jurors to be selected by the praetor, but under the lex Fufia, which was actually carried, they were chosen by *sortitio* in the usual manner.

5. **incendium . . . decrevit**: see Ascon. ad loc.

9. **non . . . necessaria**: I mark this as a parenthesis to bring out the connection of thought. *Non . . . necessaria* is a side remark, while *nisi vero* takes up *non contra remp.* For the topic cf. de Or. iii. 11 Sulpicio . . . ferro erepta vita est, et poena temeritatis *non sine magno rei p. malo* constituta.

ulla . . . umquam: the repetition is the usual one for the sake of emphasis: cf. *nulla . . . umquam* supr. *aliquando aliquid* § 67, &c. For the variant *illa* cf. Madvig [Ep. Cr. p. 68] on Verr. iv. 53, quod umquam . . . *ulla* [v. l. *illa*] in provincia fuit? It would here mean the course of defence 'previously spoken of,' a sense frequently found of a plea urged in a law-court, e. g. ad Herenn. ii. 15 item *illa defensio* tenuis est. This does not seem appropriate here.

10. **dies**: used for the events of a day, especially of revolution, or calamity. Cf. Att. x. 8. 7 non fuisset illa *nox* tam acerba Africano . . . non tam dirus ille *dies* Sullanus . . . C. Mario; Sest. 77 illo Cinnano atque Octaviano *die*.

quo: see *crit. n.*

11. **aut arma Sat.**: *arma*, though properly used of the assailant, also includes the resistance made by the State to his attack. Cicero modifies the thought in order to soften the metaphor, since *vulnerarunt*, which follows naturally after *arma*, would be used harshly, if *dies* were the only subject. The insertion of *quo* before *arma* is justly condemned by

non, etiam si e re publica oppressa sunt, rem publicam tamen vulnerarunt. Itaque ego ipse decrevi, cum caedem in via Appia **6** factam esse constaret, non eum qui se defendisset, contra rem publicam fecisse, sed, cum inesset in re vis et insidiae, crimen iudicio reservavi, rem notavi. Quodsi per furiosum illum tr. pl. senatui quod sentiebat perficere licuisset, novam quaestionem nullam haberemus; decernebat enim ut veteribus legibus, tantum modo extra ordinem quaereretur. Divisa sententia est postulante

1. non, etiamsi, Madvig, codd.; *etiamsi* edd. recc. e *om.* H. *e re p., oppressa* A. Eberhard. 2. vulnerarunt, Madvig; *non vulner.* codd., edd. recc. via Appia H, Lambin.; *Appia* rell. 4. sed *om.* T. inesset Hδ: *inessent* E: *esset* T. 6. pl. H, Ascon.: *om.* rell.

Madvig, since it would require a third *ille* before it, cf. § 76 *n.* Those editors who adopt *quo* either suppose an ellipse of *oppressa sunt* after *Saturn.*, or mark *etiam si e re p.* as a parenthesis. The latter is the easier construction.

1. **etiam si e re p.**: 'even if it were to the advantage of the State that they were crushed.' *E re p.* marks an antithesis to *contra rem p.*, the phrase being used adverbially. Dr. Reid quotes for this use de Or. ii. 124 multas *e re p.* seditiones saepe esse factas. The Schol. Bob. explains the argument thus: 'hoc munit exemplis pluribus eorum, quos *ex usu rei p.* constabat occisos.' For the use of *opprimere* in this context cf. Ascon. *in Cornel.* 64 ipse Sulpicius consulum armis iure *oppressus* esse visus est, and *in Pisonianam* 17 notum est Opimium . . . C. Gracchum *oppressisse*; Cic. Cat. iii. 24 L. Sulla P. Sulpicium *oppressit.* It will be noticed that all MSS. have *non* twice, both before *etiam si* and before *vulnerarunt.* I follow Madvig in striking out the second *non* since it would be easily inserted after *tamen* [*tñ*] by a dittography. At one time I thought it probable that the variants pointed to an original reading *etiam si res p. oppressa non est . . . non vulnerarunt*, in which case both negatives would be retained. If the first *non*, after being omitted *suo loco*, had been inserted before *etiam si*, an alteration of *est* to *sunt* would naturally follow, while *r. p.* would be interpreted as *re p.*, the reading of H. From *r̄. p.* the further corruption *e re p.* would easily arise. For corruptions of *res p.* cf. § 65 *n.* This conjecture was suggested to me by the fondness of Cicero for the phrase *opprimere rem p.*, the perf. pass. partic. being his favourite idiom. Thus we find *oppressa est res p.*, Sull. 82; *res. p. armis oppressa*, Sest. 86; *rem p. oppressam*, Leg. Agr. ii. 19, Dom. 122, Sest. 81, Phil. xii. 15; *re p. oppressa* § 94, Dom. 2, 26, Sest. 84, Phil. viii. 5. An optimate orator naturally speaks more frequently of the State as 'crushed by traitors' than of it as 'crushing traitors.' I now, however, see that the antithesis of *e re p.* and *contra rem p.* is intentional. So many conjectures have been made upon this passage that I may be pardoned for mentioning this one.

2. **via Appia**: see § 18 *n.*

5. **tr. pl.**: sc. Plancus. Cicero only speaks of *one* tribune, although we know that Sallust also vetoed the proposal (Ascon. ad loc.). Cf. §§ 12, 47.

7. **decernebat**: on the proposal of Hortensius. In this case Milo would have come before a weak jury, and might have been acquitted: see p. xxv. Fufius Calenus, the *nescio quis* of this passage, was well aware of this, since he had gained the acquittal of Clodius in B.C. 61 by similar tactics. Hortensius then acquiesced, thinking that 'a sword of lead would serve to cut *his* throat,' Att. i. 16. 2. On this occasion Fufius and Hortensius reversed their former parts, Fufius urging the extraordinary, and Hortensius the ordinary method of procedure.

veteribus legibus, cf. § 13.

8. **extra ordinem**: this was usual in cases tried under the lex Plotia: cf. Cael. 1, Fam. viii. 8. 1.

divisa sententia est: Ascon. ad loc. The two sections of the *sententia* were, (i) that the acts in question were *contra rem p.*, (ii) ut *extra ordinem* [i.e. veteribus legibus] *quaereretur.* The veto placed on (ii) left Pompey free to bring in his *nova lex* (Mommsen). An old interpretation was that the two motions were, (i) ut *extra ordinem* quaereretur, (ii) ut *veteribus legibus* qu. This conflicts with

nescio quo (nihil enim necesse est omnium me flagitia proferre); sic reliqua auctoritas senatus empta intercessione sublata est. At enim Cn. Pompeius rogatione sua et de re et de causa iudicavit; tulit enim de caede, quae in Appia via facta esset, in qua P. Clodius occisus esset. Quid ergo tulit? nempe ut quaereretur. Quid porro quaerendum est? factumne sit? at constat; a quo? at paret. Vidit igitur etiam in confessione facti iuris tamen defensionem suscipi posse. Quod nisi vidisset, posse absolvi eum, qui fateretur, cum videret nos fateri, neque quaeri umquam iussisset nec vobis tam hanc salutarem in iudicando litteram quam illam tristem dedisset. Mihi vero Cn. Pompeius non modo nihil gravius contra Milonem iudicasse, sed etiam statuisse videtur, quid vos in iudicando spectare oporteret; nam qui non poenam confessioni, sed defensionem dedit, is causam interitus quaerendam, non interitum putavit. Iam illud ipse

3. et de re HTEσ [de T. errat Bait.]: *om.* et sχ. 7. at paret, Schol. Bob.: *apparet* HT; *at apparet* E: *at patet* δ. 10. hanc *hoc loco* TE, *ante* salut. H: *post* salut. δ. 13. in *om.* T. 15. *post* interitum voc. *puniendum* inser. Lehmann. ipse dicet HEs; *dicet ipse* Tσχ: *ipsum docet* Hedicke.

the notice of Asconius, who says that the only S. C. passed was that declaring the acts *contra remp.*, while it would not be necessary to pass a law that the trial should be *veteribus legibus*, since this would naturally be the case, unless a *nova quaestio* was constituted. For the discrepancy in the accounts given by the Schol. Bob. see p. x.

1. **nescio quo**: Cicero, according to his custom, suppresses the name, though it was well known. Cf. Div. ii. 79 tetrachiam . . . adseculae suo Pergameno *nescio cui* dedisset.

nihil . . . necesse: 'here only in the speeches for *non nec.* and rare everywhere else' [Reid].

2. **reliqua auctoritas**: i.e. quod auctoritatis reliquum erat senatui, 'the remnant of authority left to the senate was destroyed.' *Auctoritas* is the special attribute of the senate, cf. Leg. iii. 28 *auctoritas in senatu sit.* All editors interpret *auctor.* in its technical sense of a 'resolution,' sc. 'the rest of the resolution.' I do not see how *sublata* agrees with this meaning, since a resolution *remained* on the minutes, even when it was prevented by the veto from becoming a sen. cons.; cf. Fam. viii. 8. 6 si quis huic s. c. intercesserit, senatui placere *auctoritatem perscribi*, de Or. iii. 5, &c. For the tendency of editors to extend this technical use of *auctoritas* see Nettleship *sub voc.* and Tyrrell on Att. iii. 23. 5.

4. **Appia via**: so all the MSS. here. Cicero appears indifferently to put *via* before and after *Appia*, and also to omit it. See *cr. n.* on §§ 14, 18 *bis*, 57, 91, and cf. *Aurelia via*, Cat. ii. 6, with *via Pompeia*, Verr. v. 169.

7. **paret**: t. t. in judicial proceedings; cf. Petronius 137 iurisconsultus, '*paret* non *paret*,' habeto, Festus, p. 233 M. *paret* quod est in formulis . . . apparet, with Paulus, p. 221; so Div. in Caecil. 56 si *paret* eam se et sua Veneris esse dixisse, Verr. iii. 69 si *pareret*, adversus edictum fecisse. *Patet*, found in the dett., is a late gloss.

8. **quod**: this is explained by the clause, *posse . . . eum.* 'If he had not seen this, sc. that a man may be acquitted.' Cf. § 51 quod ut sciret . . . illum . . . fuisse. RE. remove the comma in both places, and print *quodnisi, quodut* on the analogy of *quodsi.* The addition of the infinitive, however, differentiates these passages from e.g. Verr. ii. 64 *quod nisi* ego . . . repressissem . . . evocare non potuissem. For *quod nisi* and similar phrases see RH. p. 107.

10. **salutarem . . . tristem**: A. = absolvo, C. = condemno.

dicet profecto, quod sua sponte fecit, Publione Clodio tribuendum putarit an tempori. Domui suae nobilissimus vir, senatus propugnator atque illis quidem temporibus paene patronus, avunculus huius iudicis nostri, fortissimi viri, M. Catonis, tr. pl. M. Drusus occisus est; nihil de eius morte populus consultus est, nulla quaestio decreta a senatu est. Quantum luctum in hac urbe fuisse a nostris patribus accepimus, cum P. Africano domi suae quiescenti illa nocturna vis esset illata! Quis tum non ingemuit? quis non arsit dolore, quem immortalem, si fieri posset, omnes esse cuperent, eius ne necessariam quidem exspectatam esse mortem? Num igitur ulla quaestio de Africani morte lata est? certe nulla. Quid ita? quia non alio facinore 17
clari homines, alio obscuri necantur. Intersit inter vitae dignitatem summorum atque infimorum; mors quidem illata per scelus isdem et poenis teneatur et legibus. Nisi forte magis erit parri-

2. *putaret* H. domui TW, Richter, ed. ii; *domi* rell. 5. consultus est H: *om.* est rell. 7. fuisse in hac urbe H, Lambinus: *in hac urbe fuisse* rell. 9. ingemuit H, mg. Cratandri, ed. Juntina, *gemuit* rell. si *om.* H. 10. ne *om.* HTσ. 15. et poenis HE: et *om.* Tδ. teneatur: *tenetur* Heumann.

1. **sua sponte**: i.e. not as a sop to the Clodiani [Halm]. Others interpret. 'on his own initiative,' i.e. without consulting the senate.

2. **domui**: I print the spelling of T, also found by Fabricius in his Werdensis. For the excellence of T's spelling cf. § 9. There is good evidence for *domui* in Cicero, e.g. Tusc. i. 51 *alienae domui*, Off. iii. 99, though Klotz probably goes too far in wishing to restore it in all places. Cic. uses both forms for the sake of variety, e.g. *domi* occurs in the next sentence.

4. **tr. pl.**: his office is added, since it should have protected his life: so § 91, M. Caelius, *tr. pl.*, since as a tribune he had a right to a hearing.

5. **M. Drusus**: see Momms. iii. 232, and Schol. Bob. ad loc.

populus consultus: *ὕστερον πρότερον*. The senate would first instruct the consuls to draft a *rogatio*, and this would then be brought before the people. For the insertion of *est* see § 43 *n.*

7. **P. Africano**: see Momms. iii. 102, and Schol. Bob. ad loc.

9. **ingemuit**: a favourite word of Cicero, used to express deep, but manly emotion. Cf. Tusc. D. ii. 55 *ingemescere* non numquam viro concessum est, idque raro. A similar passage is Vat. 31 quis tum non *ingemuit*? quis non doluit? Merguet gives nine references from the speeches. For the tendency of MSS. to substitute simple forms (as here *gemuit* TE) for rarer compounds see Madv. Ep. Cr. p. 82: and cf. § 67 *ex*audire, § 78 *con*fractis, § 101 *com*movetur. *n.* So § 1. T gives *turbetur* for perturb., § 14 *esset* for inesset, § 52 *cupierat* for concup., § 53 *legerat* for elegerat. In § 52 H has *ferenda* for infer., and in § 105 E has *legit* for elegit.

10. **necessariam**: 'natural.' *Mors naturalis* is used by Plin. N. H. vii. 180 of a sudden death, e.g. from joy, but in the sense of a 'natural' death, it is late Latin.

13. **intersit**: a bold argument, since Cicero lays himself open to the retort, that Clodius, however degraded, could not be murdered with impunity.

15. **parricida**: here used in its narrower sense of 'parricide,' in the next section it = 'traitor.' The various theories concerning the etymology of this disputed word are discussed by Landgraf on Rosc. Am. 70. To the passages quoted by him I would add [from Nettleship, Lexic.], gloss. Amplon. p. 366 *parricida* dicebatur qui omnes occidebat *pares* natura, *parenticida*, qui *parentes* occidebat.

cida, si qui consularem patrem, quam si qui humilem necarit, aut eo mors atrocior erit P. Clodi, quod is in monimentis maiorum suorum sit interfectus; hoc enim ab istis saepe dicitur, proinde quasi Appius ille Caecus viam munierit, non qua po-
18 pulus uteretur, sed ubi impune sui posteri latrocinarentur. Itaque in eadem ista Appia cum ornatissimum equitem Romanum P. Clodius M. Papirium occidisset, non fuit illud facinus poeniendum; homo enim nobilis in suis monimentis equitem Romanum occiderat; nunc eiusdem Appiae viae nomen quantas tragoedias excitat! Quae cruentata antea caede honesti atque innocentis viri silebatur, eadem nunc crebro usurpatur, posteaquam latronis

1. qui H (*ante* hum.): *quis* rell. *necaverit* δ. 2. P. *om.* H. 3. sit interfectus: *est interf.* Madvig: *interfectus est* Ox. unus [ω]. *saepe ab istis* δ. 4. munierit H: *muniverit* rell. 6. Appia H: *Appia via* TE; *via Appia* δ. 9. Appia viae H: *Appiae* rell. 10. *deficit* H *in verb.* excitat quae RQ̃ (*sic*).

1. **si qui . . . si qui**: see *cr. n.* I follow H, since there seems no reason for reading *quis* before *hum.* Reisig says on Fam. iv. 5. 6 si *qui* etiam inferis sensus est, that 'the hiatus after *qui* is only offensive, if ĭ follows.' Either *qui* or *quis* appears to have been used, according to the whim of the writer: thus Rep. ii. ch. xxxi the palimpsest gives in two successive sections *ne quis* and *ne qui* magistratus. That there is no difference of meaning between the two forms, is the opinion of the best authorities. Madvig on de Fin. i. 10 says that 'more has been written on the subject than it deserves, and that the safest course is to follow the best MSS.' See also RH. p. 60 and n. 356; also infr. § 100.

2. **monimentis**: Brambach, p. 119, observes that *monu-* was the archaic form, while *moni-* came in before the Augustan period, and became traditional in the schools, thus Priscian says 'moneo, *moni*tus, *moni*mentum.' Our MSS. vary in their spelling; *moni-* is here given by H, in § 18 by HTE, in § 37 by TE, in § 104 by H. It is common in MSS. to find *moni-* altered to *monu-* by the second hand, and the inconsistency is doubtless due to such correction.

maiorum: i. e. Appius Claudius Caecus. The plural is used for rhetorical effect. Landgraf in his valuable note upon Rosc. Am. 6 quotes Wölfflin on Liv. xxi. 44. 5 tantum itineris per *tot montes fluminaque* emensos, 'where the plur. *flumina* can only be referred to the Ebro, and *montes* is an empty rhetorical flourish.' So Clu. 31 *liberos* is used of an unborn child, and Phil. i. 2 *liberos* corresponds to *tuus parvus filius* in 31. Cf. Aul. Gell. ii. 13.

3. **sit**: the subjunctive is used, since the words of the accusers are quoted. Several dett. omit *sit*, and in one very late MS. *est* is given, obviously by conjecture. The same conjecture occurred to Madvig, and is approved of by Dr. Reid.

4. **munierit**: the same form is given, Sest. 78, where there is no variant. Cf. Diomedes, p. 374, 5 '*salio*, perfectum *salii*, quasi *munii*.' The great Caecus is in Cael. 34 called up to reproach his descendant Clodia: 'ideo *viam munivi*, ut eam tu alienis viris comitata celebrares?'

6. **ornatissimum**: the epithet is properly used of those who have held curule office, but was also extended to equites, e. g. Clu. 198 *equitem* Romanum omnium *ornatissimum*.

7. **M. Papirium**: see Ascon. on § 37, and Dom. 66 for the story.

8. **homo**: for the idiomatical use of *homo* to denote rank or profession, e. g. *homo* servus, *homo* histrio, or nationality, e. g. § 80 Graeci *homines*, see Landgraf on Rosc. Am. 8.

nobilis . . . equitem: the terms are carefully chosen, and the irony increased by *suis*. Clodius treats the *via Appia* as if it belonged to his family. Cicero thus rebuts the *invidia* which the scene of the murder had created: cf. Quintil. v. 10. 41 *ad invidiam valet* (locus) . . . et Miloni inter cetera obiectum est, &c.

et parricidae sanguine imbuta est. Sed quid ego illa commemoro? Comprehensus est in templo Castoris servus P. Clodi, quem ille ad Cn. Pompeium interficiendum collocarat; extorta est ei confitenti sica de manibus; caruit foro postea Pompeius, caruit senatu, caruit publico; ianua se ac parietibus, non iure legum iudiciorumque texit. Num quae rogatio lata, num quae nova quaestio decreta est? Atqui si res, si vir, si tempus ullum dignum fuit, certe haec in illa causa summa omnia fuerunt. Insidiator erat in foro collocatus atque in vestibulo ipso senatus; ei viro autem mors parabatur, cuius in vita nitebatur salus civitatis; eo porro rei publicae tempore, quo si unus ille occidisset, non haec solum civitas, sed gentes omnes concidissent. Nisi vero, quia perfecta res non est, non fuit poenienda; proinde quasi exitus rerum, non hominum consilia legibus vindicentur. Minus dolendum fuit re non perfecta, sed poeniendum certe nihilo minus. Quotiens ego ipse, iudices, ex P. Clodi telis et ex cruentis eius manibus effugi! ex quibus si me non vel mea vel rei publicae fortuna servasset, quis tandem de interitu meo quaestionem tulisset? Sed stulti sumus, qui Drusum, qui Africanum, Pompeium, **8**

1. *illam* δ. 4. ei *om.* δ. 9. ipso : *illo* T. 11. occidisset Tδ : *cecidisset* E. 13. poenienda, Lambinus : *poenitenda* T ; *punienda* Eδ. 16. ego : *ergo* T. 17. vel mea E : *om.* vel Tδ.

2. **templo Castoris** : this had been repaired by L. Metellus Dalmaticus, cos. 119 B.C. (Scaur. 46), and was frequently used for meetings of the senate : cf. *quo saepenumero senatus convocatur*, Verr. i. 127. It was near the house of the Vestals, and was only dismantled in 1547 for the building of St. Peter's [Lanciani, p. 155].

servus P. Clodi : cf. Ascon. on § 37, Sest. 69, Schol. Bob. on de Aere al. i. 3, and ii. 8 for the story. Pompey at all times had a nervous horror of assassination. In 58 B.C. he thought his life in danger from Cicero (Sest. 41), in 56 from Crassus (Q. F. ii. 3. 4), and at this time was almost ludicrously apprehensive of Milo. Vettius, the informer, knew his man well, when in 59 he came forward with 'revelations' concerning an alleged plot of the optimates against Pompey's life : Att. ii. 24.

4. **ei confitenti** : for the insertion of the demonstrative pronoun cf. Div. i. 57 tum *ei dormienti* eundem illum visum esse rogare, Phil. xiii. 20, Nat. D. i. 72, iii. 89, Off. i. 154, Fin. ii. 58, Ascon. 36.

caruit : so *urbe carere* Phil. i. 6, *domo car.* Dom. 146. The antithesis to the word is *frui*, e. g. Att. ii. 1. 4 neque nos te *fruimur*, et tu nobis *cares*

8. **summa omnia** : cf. Imp. Pomp. 36 quae in Cn. Pompeio . . . *summa omnia* sunt.

11. **rei p. tempore** : 'political crisis,' cf. Att. xvi. 7. 5 hoc vero nihil turpius *quovis rei p. tempore*, sed hoc ἀναπολόγητον.

occidisset : the same conjunction of verbs occurs Dom. 96 rempublicam *concidere* unius discessu, quam omnium interitu *occidere* malui. The variant *cecidisset* is due to a misconception of the meaning conveyed by *concidissent*. *Concidere* = 'to be struck down,' e. g. Tusc. D. iii. 66 qui *concidentem* vulneribus Cn. Pompeium vidissent, not to 'fall *together with*.' The latter meaning is conveyed by *una concidere*, e. g. *una cum re p. concidere*, Sen. 17, Dom. 63.

nosmet ipsos cum P. Clodio conferre audeamus. Tolerabilia fuerunt illa; P. Clodi mortem aequo animo ferre nemo potest. Luget senatus, maeret equester ordo, tota civitas confecta senio est; squalent municipia, adflictantur coloniae, agri denique ipsi tam beneficum, tam salutarem, tam mansuetum civem desiderant. 5

21 Non fuit ea causa, iudiçes, profecto, non fuit, cur sibi censeret Pompeius quaestionem ferendam; sed homo sapiens atque alta et divina quadam mente praeditus multa vidit: fuisse illum sibi inimicum, familiarem Milonem; in communi omnium laetitia si etiam ipse gauderet, timuit ne videretur infirmior fides reconci- 10

2. aequo animo ferre nemo T: *nemo aequo animo ferre* E; *aequo animo nemo ferre* δ. aequo animo *del.* Lange. 6. *profecto non fuit* edd. ante Madvig. 7. atque alta et divina: *et alia* δ.

2. **aequo animo ferre nemo potest**: the variety in the position of *nemo* in TE probably means nothing more than that the word was first omitted and then put in the margin of the archetype. There is no reason to suspect *aequo animo*, the addition of which to *ferre* is constant in Cicero. I prefer the order *nēmō pŏtēst* to *fĕrrĕ pŏtēst*, since the latter forms a rhythm for which it is difficult to find a parallel in Cicero: cf. Wüst, pp. 30, 47.

3. **luget**: the various synonyms expressing grief are explained by Cicero, Tusc. D. iv. 18. *Luctus*, he says, is 'aegritudo ex eius, qui carus fuerit, interitu acerbo.' This *interitus* may be either death itself, or civil death, i.e. loss of *incolumitas*. For the first cf. Tac. Ann. ii. 75 *luctum* amissae sororis . . . laeto cultu mutavit, and supr. § 13, and for the second Sull. 91 non patitur hominem *calamitosum*, . . . uno in *luctu* perire.

maeret: '*macror* aegritudo flebilis' Cic. Tusc. ib.

senio: i.e. 'melancholy'; cf. Tusc. D. iii. 27 *senio et aegritudine* confectus. The idea is that of 'moping' or querulous old age. More generally the word signifies decay or neglect, e.g. Gell. xx. 1. 10 leges . . . *situ atque senio* emori.

4. **squalent**: especially used of the garb put on by one who is in mourning, or *sordidatus*, e.g. Fam. v. 1 in luctu et *squalore* sum qui exercitui praesum.

adflictantur: '*adflictatio* aegritudo *cum vexatione corporis*' Cic. l. c., i.e. of beating the breast. Cf. Sall. Cat. 31. 3 mulieres *adflictare* sese, manus supplices ad caelum tendere.

agri: for the personification cf. Planc. 20 honoribus *agri ipsi* prope dicam montesque faverunt, and § 85 *regiones* n.

5. **mansuetum** = χειροήθη of a domestic pet: cf. Aen. vii. 470 Ille *manum patiens*, mensaeque *assuetus* herili.

6. **profecto**: Madvig remarks that *profecto* belongs to the first, not the second clause, since otherwise the anaphora *non . . . non* is destroyed. If it had belonged to the second clause it would have been put at the end of it, as in § 69 erit, erit illud *profecto*. Cf. Rosc. Am. 121 non ita est *profecto*, iudices, non est veri simile, and Landgraf's note.

9. **familiarem**: cf. § 68. The remark is not without irony, since Pompey was notoriously ready to surrender his *familiares*.

laetitia . . . gauderet: Cicero, Tusc. iv. 13 defines *laetitia*, as connoting extravagant joy, while *gaudium* is used of a rational and tranquil emotion. Hence ib. 66 *gaudere* decet . . . *laetari* non decet. He generally puts *laetitia* after *gaudium*, e.g. Lael. 14 et nos *gaudemus* et haec civitas, dum erit, *laetabitur*. Landgraf on Rosc. Am. 137 points out that in the speeches Cicero prefers the stronger word; thus in them he uses *laetitia* 38, and *gaudium* only 11 times. For the sentiment here expressed cf. Phil. ii. 21.

10. **reconciliatae gratiae**: Clodius had espoused the cause of Pompey in 56, when the latter was intriguing for the consulship in 55, and was violently opposed by Marcellinus [Dio C. xxxix. 29]. A reconciliation between enemies at Rome was made in a public manner; cf. Fam. i. 9. 20: and it was considered a grave

liatae gratiae; multa etiam alia vidit, sed illud maxime, quamvis atrociter ipse tulisset, vos tamen fortiter iudicaturos. Itaque delegit ex florentissimis ordinibus ipsa lumina, neque vero, quod non nulli dictitant, secrevit in iudicibus legendis amicos meos; neque enim hoc cogitavit vir iustissimus, neque in bonis viris legendis id adsequi potuisset, etiam si cupisset. Non enim mea gratia familiaritatibus continetur, quae late patere non possunt, propterea quod consuetudines victus non possunt esse cum multis; sed si quid possumus, ex eo possumus, quod res publica nos coniunxit cum bonis; ex quibus ille cum optimos viros legeret idque maxime ad fidem suam pertinere arbitraretur, non potuit legere non studiosos mei. Quod vero te, L. Domiti, huic 22 quaestioni praeesse maxime voluit, nihil quaesivit aliud nisi iustitiam, gravitatem, humanitatem, fidem. Tulit ut consularem necesse esset, credo, quod principum munus esse ducebat resistere et levitati multitudinis et perditorum temeritati. Ex consularibus te creavit potissimum; dederas enim, quam contemneres populares insanias, iam ab adulescentia documenta maxima.

4. amicos . . . legendis *om.* T. 8. propterea . . . multis *del.* Bake. 10. bonis : *multis* δ. 13. aliud nisi Eδ : *nisi* T. 18. insanias : *insidias* δ.

offence against morals, if it were not wholly genuine. Cf. Fam. iii. 12. 4 and viii. 6. 1.

2. **atrociter**: 'sternly'; cf. Mur. 64, Phil. xi. 15.

florentissimis: the adjective is constantly used of a statesman, e.g. Cael. 59 *in re p. floruisset*, Sest. 101 *florentem* hominem in populari ratione. Here it ='influential.' In metaphors it conveys the idea of brilliancy, e.g. Att. xvi. 11. 1 ἄνθη ipsa posuisti, quae mihi *florentiora* sunt visa tuo iudicio, 'you quoted the very gems, and they seem to me more sparkling,' &c. Hence *florens* is naturally followed by *lumina*, 'luminaries;' cf. de Orat. iii. 166 modus nullus est *florentior* . . . nec qui plus *luminis* afferat orationi: and Lucr. iv. 450 lucernarum *florentia lumina* flammis.

4. **secrevit**: 'set aside' Cf. Att. i. 16. 3 reus tamquam clemens lanista frugalissimum quemque *secerneret*.

8. **propterea . . . multis**: Bake remarks 'concedo ut aliis ista explicatio aut elegans aut necessaria videatur; mihi sapere videtur sedulum annotatorem.' I am not sure that he is not right.

10. **optimos viros**: Landgraf on Rosc. Am. 23 remarks that *optimus vir* is always used of genuine praise, while *vir optimus* is often ironical, e.g. Tusc. D. iii. 50 Epicurei, *viri optimi*. On the other hand, when *bonus* is ironical it is always put before its substantive, e.g. Verr. v. 12 quid ais, *bone* custos, defensorque provinciae?

13. **quaestioni . . . quaesivit**: for the assonance cf. §§ 7, 9 *n.*, so infr. § 59 *quaestiones . . . quae sunt*, and Att. ii. 16. 4 *quaestores* autem, *quaeso* num etiam . . . dubitant?

15. **necesse esset**: sc. praeesse.

credo: 'when *credo* is used of belief based upon individual opinion, not upon external evidence, it always implies either that the belief is purely subjective' [as here] 'or else that it is ill-grounded, e.g. Nat. D. ii. 7 si ea ficta credimus' Seyffert-Müller, Laelius², p. 173.

16. **levitas**: a party expression, so frequently *popularis levitas*. For *temeritati* cf. § 3 *furor* n.

18. **iam ab adulescentia**: Cicero refers to the action of Domitius as quaestor in 67 B.C. against the bands of C. Manilius. Asconius, in Cornel., tells us that Manilius in Dec. 67 brought forward

9 Quam ob rem, iudices, ut aliquando ad causam crimenque
23 veniamus, si neque omnis confessio facti est inusitata, neque de causa nostra quicquam aliter ac nos vellemus a senatu iudicatum est, et lator ipse legis, cum esset controversia nulla facti, iuris tamen disceptationem esse voluit, et ei lecti iudices isque praepositus *est* quaestioni, qui haec iuste sapienterque disceptet, reliquum est, iudices, ut nihil iam quaerere aliud debeatis, nisi

3. *velimus* χ. 5. ei lecti, Garatoni: *electi* codd.; fort. *ei electi*. isque TE: *isti os*; *esti* χ; *estis isque* Trojel (Jahrb. 1855, p. 315). 6. est, Orelli: *om.* codd. *discceptent* E. F. Eberhard.

a law *de libertinorum suffragiis*. This he carried on the day of the Compitalia (ib. 65), which we know from Dio was on Dec. 31 (Dio C. xxxvi. 25). It was afterwards quashed by the senate on the ground of informality (Asc. 66). Asconius, in his note upon the present passage, says that the vigour shown by Domitius *in quaestura* (Manutius: *praetura* MSS.) is referred to, when he opposed the law of Manilius *de libert. suffragiis*. In 67 B.C. Domitius would be 31 years of age, and the phrase *iam ab adulesc.* is appropriate to events of 15 years ago. We hear from Asconius of another riot in which Manilius was concerned early in 65 B.C., when he was being tried for *maiestas* (*in Cornel.* 60, 66), and the Schol. Bob. on this passage says the reference is to the behaviour of Domitius then. It is possible that Domitius took the lead on both occasions, but more likely that the Scholiast has fused together the two riots mentioned by Asconius. The correction of Manutius is of the most simple kind (see C. F. W. Müller's notes, ii. 3, on pp. 35. 6, 6. 22, 241. 30 for errors due to the abbreviations *q.* = quaestor, and *pr.* = praetor), and has been accepted by Garatoni, and Nipperdey (leges annales, pp. 85, 86). I would point out that Domitius, who should have been consul *suo anno* in 55, and was praetor in 58, would, if *quaestor suo anno*,—which he certainly must have been, since he had been 'designated for the consulship since his cradle,' Att. iv. 8 b. 2,—hold the office in 67: which seems to verify the correction.

Recent editors all keep *praetura* in the text of Ascon., and refer to events supposed to have taken place in 58 B.C., a course which plunges them in a morass of difficulties. It is conjectured (i) that an otherwise unknown *Manlius* (the MSS. of Ascon. vary between this and Manilius) in 58 proposed again the law which Manilius had brought forward in 67, and was opposed by Domitius [Wirz, Gaumitz]. It is, however, highly improbable that two persons, with such similar names, would have brought forward the same law; (ii) that the same Manilius in 58 again advocated his old law of 67 [Halm, Richt-Eb.]. But the words of Asconius can only mean that he was tribune *at the time*, and to render *C. Manilius tr. pl.* by 'C. Man. the well known tribune of 66' does not seem ingenuous. Also, it is difficult to see what his *locus standi* could have been, since no one supposes he was again tribune. He disappears from history after his condemnation for *maiestas* in 65, having previously been accused of κλοπή at the end of 66 [Dio C. xxxvi. 25]. Both explanations ignore the support given to the earlier date, sc. 67–66, by the Schol. Bob., while *iam ab adulescentia* hardly describes the events of six years ago. Some wilder theories are to be found in Gaumitz, p. 28.

1. The orator briefly gathers up the results arrived at; si neque . . . inusitata corresponds to §§ 7–11, neque de . . . iudicatum est to §§ 12, 14, et lator . . . esse voluit to §§ 15, 21, ei lecti iud. to § 21, isque . . . disceptet to § 22.

5. **ei lecti**: it had occurred to me independently to conjecture *ei electi* from § 105, *elegit*, and I see that this has been given by Novák. As, however, the *concursus vocalium* is not a very pleasant one, I print the correction of Garatoni.

6. **disceptet**: regularly used of the umpire between contending parties; cf. Verr. v. 183 *disceptante* populo Romano, so *disceptator* Flacc. 97. So also of jurors, e g. Verr. iii. 169 iudices, vobis *disceptantibus*. The singular here seems right, since Domitius is chiefly thought of.

uter utri insidias fecerit. Quod quo facilius argumentis perspicere possitis, rem gestam vobis dum breviter expono, quaeso, diligenter attendite.

P. Clodius cum statuisset omni scelere in praetura vexare 24
rem publicam videretque ita tracta esse comitia anno superiore, ut non multos menses praeturam gerere posset, qui non honoris gradum spectaret, ut ceteri, sed et L. Paulum collegam effugere vellet, singulari virtute civem, et annum integrum ad dilacerandam rem publicam quaereret, subito reliquit annum suum seseque in proximum transtulit, non, ut fit, religione aliqua, sed ut haberet, quod ipse dicebat, ad praeturam gerendam, hoc est ad evertendam rem publicam, plenum annum atque integrum.

1. *perspicere possitis argumentis* E. 5. tracta, ed. Aldina: *tractata* ccdd. 7. effugere vellet TE: *effugere* σχ; *effugeret* s. 10. proximum, A. Eberhard: *annum* add. post *proximum* E, ante *prox.* Tδ.

1. **uter utri**: for the repetition cf. Ter. Phorm. v. 3. 17 *uterque utrique* est cordi, Nepos, Dion. 4. 1 ne *alteruter alterum* praeoccuparet. Krebs-Allg. point out that *uter alteri* is an unusual idiom.

argumentis: the order given to this word in E is an eccentricity of that MS., cf. § 53 *n.* I mention this, since Dr. Reid, accepting this order, takes *argumentis* with *expono*.

2. **rem gestam**: cf. Tull. 13 *rem ipsam, ut gesta sit, dum breviter vobis demonstro, attendite.*

5. **tracta**: for the facts cf. Dio C. xl. 45, who says that the elections were held ἐβδόμῳ μηνί after Pompeius Rufus, then tribune, had been cast into prison. The corruption *tractata* is a familiar one, cf. § 37 *intenta*, al. *intentata*. The converse to it occurs Ascon. 37 *tractata* ea res . . . in senatu, where S gives *tracta*. Ascon. 32 has the correct word, cum diu *tracta* essent comitia.

anno superiore, i. e. B. C. 53 [Momms. Staatsr. i. 599. 3] = *anno proximo*. Cf. Fam. i. 9. 20 *proximis superioribus* diebus, Orat. 216 *proximum superiorem*, saepe etiam tertium. *Anno superiore* is contrasted with *hoc anno*, Sen. 9. Dr. Reid, who takes the words of B.C. 54, i. e. the *prox. annus*, from Clodius' point of view, suggests that they are a gloss, since in 54 the elections were not held at all.

7. **L. Paulum**: consul in 50 B.C., a venal noble. His neutrality in the civil war was bought by Caesar *ingenti mercede*, Suet. Caes. 29. He was a brother of Lepidus the triumvir, who in 43 B.C. put him on the list of the proscribed: Vell. ii. 67.

effugere vellet: the reading of several dett. *effugeret* seems at first sight very plausible, cf. Deiot. i. 6 *caderet*, al. *cadere posset*, and Madvig ad loc. [Op. Ac. ii. 310], Lig. 4 *fugeret*, al. *cuperet effugere*. A comparison with the earlier dett., however, shows that this was due to an omission of *vellet* in them. This instance shows how tainted by conjecture these MSS. are.

8. **dilacerandam**: ἅπαξ λεγ. in Cicero. In Rep. i. 9 we have *lacerari rem p.*: cf. Sall. Jug. 41. 5, Juv. iv. 37.

9. **annum suum**: Clodius was quaestor in B.C. 61, and curule aedile in 56. If he would have been praetor *suo anno* in 53, i. e. when 40 years of age, he must have been 32 when quaestor, i.e. a year later than the time at which he was legally eligible.

10. **proximum**: I accept the correction of Eberhard, since the various order in TE indicates that *annum* is an addition from the margin. There does not seem to be any reason for emphasising the word, as is generally the case with such repetitions: cf. § 53 *n.*

religione aliqua: e. g. possibly in consequence of a *familiare ostentum*, or *privatum portentum*, see Strachan-Davidson, Polybius, p. 126. 4.

25 Occurrebat ei mancam ac debilem praeturam futuram suam consule Milone; eum porro summo consensu populi Romani consulem fieri videbat. Contulit se ad eius competitores, sed ita, totam ut petitionem ipse solus etiam invitis illis gubernaret, tota ut comitia suis, ut dictitabat, umeris sustineret. Convocabat tribus; se interponebat; Collinam novam dilectu perditissimorum civium conscribebat. Quanto ille plura miscebat, tanto hic magis in dies convalescebat. Ubi vidit homo ad omne facinus paratissimus fortissimum virum, inimicissimum suum, certissimum consulem, idque intellexit non solum sermonibus, sed etiam suffragiis populi Romani saepe esse declaratum, palam agere
26 coepit et aperte dicere occidendum Milonem. Servos agrestes et barbaros, quibus silvas publicas depopulatus erat Etruriamque vexarat, ex Appennino deduxerat, quos videbatis. Res erat minime obscura; etenim dictitabat palam consulatum eripi Miloni non posse, vitam posse. Significavit hoc saepe in senatu,

1. ei TE: *enim* δ, *del.* Garatoni. suam *ante* futuram δ. 6. Collinam: *coloniam* δ. 15. dictitabat palam E: *palam dictitabat* Tδ. eripi Miloni E: *Miloni eripi* Tδ.

1. **mancam ac debilem**: *mancus* appears to be originally used of the hand, cf. Juv. iii. 48 *mancus* et exstinctae corpus non utile *dextrae*, while *debilis* = 'crippled,' i.e. of the whole body. So Rab. Perd. 21 *mancus* et membris omnibus captus et *debilis*.

5. **suis . . . umeris sustineret**: cf. Verr. v. 108 *collo et cervicibus suis sustinerent*, Sen. 39, Dom. 40.

6. **Collinam**: modern editors accept the explanation of G. Wolff [Phil. xvii. 726], 'Clodius held a reunion of the greatest rascals from each tribe, who promised to work against Milo. This gathering Cicero calls a new Colline tribe, since this was the least reputable of the four city-tribes.' This seems extravagantly far-fetched. There is practically no evidence to show that the Colline enjoyed a worse reputation than the other tribes [Momms. Staatsr. iii. 164. 3] beyond the fact that in the *ordo tribuum* [Liv. Epit. xx.] it is last of the four. The tribe in which demagogues had most power was the Palatine, Sest. 114. I take the words literally, and suppose that Cicero attributes to Clodius an intention to duplicate the existing *Collina*. His first proposal was, as we know, to enrol the freedmen equally in all the four, but failing this, he may have wished to divide the Colline, as more congested than the others. This would double its voting power. *Conscribere*, which is originally a military term = to 'enlist,' is often used of Clodius' 'recruits,' e.g. Sest. 34: it is also used of enrolling a body, e.g. *colonos*, *centurias*.

9. **certissimum**: cf. Att. i. 1. 2 de iis qui nunc petunt, Caesar *certus* putatur.

11. **suffragiis**: i.e. on those occasions when the voting was stopped by the veto, *obnuntiatio*, or *vis*.

palam . . . aperte: cf. § 2 *n* and Verr. A. P. 18 *aperte palamque*, iii. 146.

13. **quibus**: the slaves are regarded as instruments, hence the abl. instead of *per quos*: cf. §§ 47, 54.

silvas: the best known of the *silvae publicae* in Etruria are those near Perusia, Clusium, and Rusellae (Liv. xxviii 45). These were *silvae caeduae*, i.e. used for felling (Marq. ii. 158).

Etruriam: cf. § 55 *n*.

14. **Appennino**: cf. de Aere al. ii. 2 eosdem ad caedem civium *de Appennino* deduxisti. The possessions of Clodius, however, appear from Phil. xii. 23 to have been on the *via Aurelia* along the coast, some distance from the Appennines.

dixit in contione, quin etiam M. Favonio, fortissimo viro, quaerenti ex eo, qua spe fureret Milone vivo, respondit triduo illum aut summum quadriduo esse periturum; quam vocem eius ad hunc M. Catonem statim Favonius detulit. Interim cum sciret **10**
5 Clodius (neque enim erat difficile scire), iter sollemne, legitimum, **27**
necessarium ante diem XIII. Kal. Februarias Miloni esse Lanuvium ad flaminem prodendum, Roma subito ipse profectus pridie est, ut ante suum fundum, quod re intellectum est, Miloni insidias collocaret; atque ita profectus est, ut contionem turbu-
10 lentam, in qua eius furor desideratus est, relinqueret, quam, nisi

1. M. *suppl.* Krause, Marco *unus Ox.* [ω] : om. rell. codd. 3. aut E, χ in mg.: *ad* Tδ. esse *om.* δ. 5. erat difficile δ, vett. edd.: id *ante* diffic. *add.* T; *post* diffic. E. scire δ: *a Lanuvinis add.* TE. 7. prodendum: *quod erat dictator Lanuvi Milo* add. codd. del. Bake; tuentur recc. edd. Romfa sχ: *Romam* TEσ. 10. est: *quae illo ipso die habita est* add. codd. del. Bake.

1. **M. Favonio**: Cato's devoted follower, called by Mommsen, iv. 315, his 'Sancho.' Cf. Dio C. xxxviii. 7 Κάτωνος ζηλωτὴς ἐς τὰ μάλιστα. He was at this time *quaesitor de sodaliciis*, and, like his master, carried impartiality to an excess. The MSS. omit *M.* after etiam by a familiar lipography. Asconius 53 gives the praenomen, audisse eum a *M.* Favonio, &c. The correction was here made by Krause, but is really an ancient one, occurring in a late det.

5. **scire**: the addition *a Lanuvinis* needlessly restricts the sense. Cicero's point is that *anyone* could easily find out all about it. The various order in the position of *id* in TE, coupled with its omission in the dett., indicates that it is an addition from the margin of the archetype.

sollemne: 'annual,' so frequently of *ludi, epulae, sacrificia.*

7. **flaminem**: sc. of Juno Sospita, a goddess whose somewhat quaint attire, 'in goatskin and turned-up shoes, together with a spear and small shield,' is described N. D. i. 82.

prodendum: 'nominate,' t. t. of the choice made by a close corporation of privileged persons, e.g. Dom. 38 quem [sc. *interregem*] et ipsum patricium esse, et a patricio *prodi* necesse est. Asconius tells us, that Milo was to nominate the flamen on the next day, so that, as Trojel points out, Milo might have kept his engagement by starting early on the 19th. Cicero is silent on this point. He represents Milo's engagement as pressing, in order to establish a connection between it and Clodius' sudden departure the day before. The words which follow in the MSS. *quod erat dictator Lanuvi Milo* are a scholium from the margin, as is sufficiently shown by the ungrammatical *erat*. The information is to be found in Ascon. 32 *ex quo erat municipio et ibi tum dictator*: for scholia taken from the same source cf. §§ 46, 90. Recent editors defend the words on the ground that, as Cicero was writing the speech afterwards, he added this piece of information for the reader, and so dropped into the indicative. This does not seem likely, since he always tries to produce the illusion of spoken discourse, e.g. Verr. iv. 5, &c.

subito: for the real purpose of Clodius see Ascon. l. c.

8. **quod re**: Cicero boldly states as a fact, what he only attempts to prove in § 53.

10. **relinqueret**: this ought to mean that he actually *went away* from it, just as *a contione relinqui* [cf. Brut. 305] means that the speaker is left alone by his meeting. The *contio* here in question is obviously the one also alluded to in § 45 *at quo die*? &c. Asconius, who had the *Acta* before him, says there that the reference is to a meeting on the 18th, and his words suggest that there was no meeting on the 17th. Cicero in § 45 intentionally uses ambiguous language which might refer to a meeting either on the 18th or on the 17th. For the same reason in both passages he uses the misleading verb *reliquisset*. In § 45, however, he could

obire facinoris locum tempusque voluisset, numquam reliquisset.
28 Milo autem cum in senatu fuisset eo die, quoad senatus est dimissus, domum venit; calceos et vestimenta mutavit; paulisper, dum se uxor, ut fit, comparat, commoratus est, dein profectus id temporis, cum iam Clodius, si quidem eo die Romam venturus erat, redire potuisset. Obviam fit ei Clodius, expeditus, in equo, nulla raeda, nullis impedimentis, nullis Graecis comitibus, ut solebat, sine uxore, quod numquam fere, cum hic insidiator, qui iter illud ad caedem faciendam apparasset, cum uxore veheretur, in raeda, paenulatus, magno et impedito et muliebri ac
29 delicato ancillarum puerorumque comitatu. Fit obviam Clodio ante fundum eius hora fere undecima aut non multo secus.

4. *deinde* δ. *vulgus* add. δ. 8. quod numquam fere *om.* T. *impedimento ac mul. et* δ. 10. paenulatus,

defend himself by saying, that he really meant the 18th; while in this passage, if the words *quae illo ipso die habita est* are read, he definitely commits himself to a false statement. We must therefore suppose (i) that he did this, or had a lapse of memory, or, (ii) that the words are a scholium coming from some one who was misled by the ambiguity in § 45. The latter appears more probable, since a false statement of this kind would have been easily exposed. *Illo ipso die* can only mean 'that same day': cf. Fam. v. 2. 8.

1. **obire**: the word is used of a place, e. g. Verr. v. 29 *obire provinciam*, also of time, e. g. *diem edicti* Phil. iii. 20, or of keeping an engagement: e. g. *cenas . . . obire* Att. viii. 12. 3. For the combination in the present passage, Colson quotes Lael. 7 *diem et munus obire*.

2. **senatus est dimissus**: according to Metellus Scipio 'post horam *quartam*,' i. e. about 10 a. m., Ascon. 36. Cicero throughout the story tries to post-date Milo's movements; the other side doubtless ante-dated them.

3. **calceos . . . mutavit**: i. e. put on ordinary *calcei* in place of those peculiar to senators: *calceos mutare* also means to 'become a senator,' e. g. Phil. xiii. 28, the process being in this case reversed. Quintil. comments upon the 'artful affectation of simplicity' which characterises this passage. Cicero uses ordinary and conversational words—'quae si aliter dicta essent, strepitu ipso iudicem ad custodiendum patronum excitassent' (iv. 2. 57).

4. **uxor ut fit**: as family men they would realise that Fausta was not to be hurried. Cf. Ter. Haut. ii. 1. 10.

dein: for the form see § 65 *n.*

5. **id temporis**: this does not = *eo tempore*, but at that *hour* of the day, i. e. so late: cf. § 54 where it = *vesperi*. In Cat. i. 10 *id temporis* = mane; Fin. v. 1. 1 it = 'afternoon.' Cf. Liv. xl. 9. 12 quid *hoc noctis* venis, i. e. 'so late at night.' So also *id aetatis* Verr. ii. 37 = maior natu, and Clu. 141 cum *id aetatis* filio = 'of such tender years.' See Landgraf on Rosc. Am. 97.

8. **quod numquam fere**: Fulvia was a very devoted wife to her successive husbands. For her grief at the death of Clodius see Ascon. 33. 41. Probably little credence should be given to the description of Clodius' ordinary retinue in § 55 *semper secum scorta*, &c. Fulvia at any rate does not seem to have been conscious of her wrongs.

10. **magno et impedito**: Cicero cannot deny the size of Milo's retinue, so he ingeniously suggests that he was handicapped by it. The account of its composition given by Metellus Scipio [Ascon. 36] was, however, very different. *Muliebri* is explained by *ancillarum* and *delicato* by *puerorum*—cf. § 68 *aegras . . . labantes . . . sanares . . . confirmares*. For *delicato* Reid quotes Mart. x. 62. 3 *delicatae chorus mensae*. Cicero is careful to explain that these attendants belonged to Fausta. An enemy would doubtless have described them in the language employed by Cicero of Clodius' train, or that of Antony, Phil. ii. 58.

12. **hora fere undecima**: i. e. about 4 p. m. The words *fere* and *non multo secus* cover considerable inaccuracy, the

Statim complures cum telis in hunc faciunt de loco superiore impetum, adversi raedarium occidunt. Cum autem hic de raeda reiecta paenula desiluisset seque acri animo defenderet, illi, qui erant cum Clodio, gladiis eductis partim recurrere ad raedam, ut a tergo Milonem adorirentur, partim, quod hunc iam interfectum putarent, caedere incipiunt eius servos, qui post erant; ex quibus qui animo fideli in dominum et praesenti fuerunt, partim occisi sunt, partim, cum ad raedam pugnari viderent, domino succurrere prohiberentur, Milonem occisum et ex ipso Clodio audirent et re vera putarent, fecerunt id servi Milonis (dicam enim aperte non derivandi criminis causa, sed ut factum

1. cum telis *om.* Schol. B. 2. *adversi, raedarium* Kraffert: *aggressi raed.* Schol. B. 4. *decurrere* Rau, ii. 92. 6. incipiunt *del.* Rau. 7. et praesenti E: *erant et praesenti* T; *erant et praesentes δ.* 9. domino: *et domino* P. 10. id: *om.* Quintil. vii. 1. 36. 11. aperte P: *om.* rell. codd.

encounter having really taken place *circa horam nonam* [Ascon. 32]. The earlier date exactly agrees with the statement of the accusers, quoted by Quintil. vi. 3. 49 'quod Bovillas *ante horam nonam* devertisset, dum Clodius a villa sua exiret,' and is verified by the fact that the corpse reached Rome *ante primam noctis horam*, Asc. 33. Cicero makes this bold misstatement partly to rebut the charge of 'loitering' brought against Milo, and partly to base upon it his assertion in § 49 that it was night-fall when Clodius left his villa.

2. **adversi**: 'they run up and kill the driver.' The rhythm of the sentence suffers, if *adv.* is taken with the first clause. For the character of Cicero's story see Schol. Bob. ad loc. That it is meant to deceive is obvious from the vagueness of the details. Cicero's conception appears to be that Clodius is stationed on a height, *edito atque excelso loco*, § 53, either at the top of the hill, or more probably beside the road. When Milo appears, one division of the *Clodiani* (*complures*) charge down, and stop the coach. The main body (*qui erant cum Clodio*) then separate into two detachments, the first attacking the coach in the rear, and the second the slaves who were following it. Milo's retinue is thus assailed in three places. The editors assume that Cicero's account is in the main identical with that given by Ascon., sc. that the retinues *passed* each other: thus Halm says of *recurrere* 'die auf den Wege nach Rom schon etwas voraus waren.' This does violence to the language of Cicero here and in § 53, and would spoil his point that 'Clodius *insidias fecit* Miloni.'

3. **reiecta**: i.e. thrown back over his shoulder: cf. de Or. ii 294 ut non modo non abiecto, sed ne *reiecto* quidem scuto fugere videar, Fam. x. 30. 3; Verg. Aen. xi. 630.

4. **recurrere**: i.e. 'run behind' rather than 'run back to': *decurrere*, the conjecture of Rau, would yield an excellent sense.

8. **partim occisi**: according to Metellus Scipio, the only casualties on Milo's side were two wounded [Ascon. 36]!

10. **servi Milonis**: the repetition of *servi* is intentional, as laying stress upon the statement that the slaves acted upon their own initiative: cf. § 57 ne tormentis cogerentur [sc. *servi Milonis*] occisum esse *a servis Milonis* in Appia via P. Clodium confiteri. It is singular that Bake should have suspected these words, which also occur in the citation of Quintil. vii. 1. 36.

11. **aperte**: the word imparts an air of candour to the story, at the point where the advocate ventures upon his boldest fiction. Cicero speaks as if Clodius was killed on the spot, and wholly suppresses the fact that he was murdered in cold blood outside the tavern at Bovillae by Milo's orders: Ascon. 33.

est) nec imperante nec sciente nec praesente domino, quod suos quisque servos in tali re facere voluisset.

11 30 Haec, sicuti exposui, ita gesta sunt, iudices; insidiator superatus est; vi victa vis vel potius oppressa virtute audacia est. Nihil dico, quid res publica consecuta sit, nihil, quid vos, nihil quid omnes boni; nihil sane id prosit Miloni, qui hoc fato natus est, ut ne se quidem servare potuerit, quin una rem publicam vosque servaret. Si id iure fieri non potuit, nihil habeo quod defendam; sin hoc et ratio doctis et necessitas barbaris et mos gentibus et feris natura ipsa praescripsit, ut omnem

1. nec imper. P, Schol. B. *neque imper.* TEδ. nec sciente PE: Schol. B. *neque sc.* Tδ. nec praes. PTE: *neque praes.* δ. 3. sicuti TE: *sicut* Pδ; *si ut* Quintil. iv. 4. 2 codd. A B, Schol. Bob., Julius Victor, p. 416. 5. nihil dico *post* sit T. 6. id: *quod* P. 8. iure fieri non potuit P: *fieri iure non posset* TE; *iure non posset* δ. 9. quod: *quid* P. 10. feris: *etiam beluis* add. P. edd. recc.

1. **nec . . . nec . . . nec**: the variety in the MSS. [cf. §§ 3, 51] seems to indicate a tendency to substitute *neque* for *nec*, especially before a vowel. Landgraf, in RH. n. 408, says that on account of such variety, no sure conclusions as to the use of *nec* before a vowel can be arrived at. 'Caesar objected to *nec* before a vowel, and so formed *in*opinans, the author of the Alexandrian war uses *neque* opinans, Cicero employs *nec* opinans.' Wölfflin remarks a tendency to use a second *nec* before a vowel, if preceded by *nec* before a consonant, e. g. nec plumbum nec aurum. Here *nec* before *imperante* seems preferred in anticipation of *nec . . . nec* which follow.

3. **sicuti . . . ita**: the pleonasm [cf. § 6 *n.*] gives solemnity to the assertion. It hardly seems necessary to consider it an idiom taken from the *sermo familiaris*, in which such repetitions are frequent [Guttmann, p. 10]. Quintilian's reading *si . . . ut* would cast a doubt upon the truthfulness of the story. It is duly reproduced by Julius Victor: cf. p. xlv.

4. **vi . . . vis**: for the repetition cf. Sest. 39, and for the alliteration with *victa* § 9 *n.*

8. **fieri**: I retain the ordinary reading, though with some hesitation. The variety in the position of *fieri* in P and TE, together with its omission in the dett., makes the word doubtful. Without it the ellipse is one of *facere*, sc. Milo.

10. **feris**: the addition *etiam beluis* found in P appears to me a manifest interpolation. Peyron himself says, 'glossam mihi sapere videtur praecedentium verborum *et feris*.' It spoils the *concinnitas* of the sentence, since *doctis . . . barbaris . . . gentibus*, which are properly followed by the single word *feris*, are overbalanced by *feris etiam beluis*. Cf. de Inv. i. 103 *a feris hominibus et a barbaris gentibus et immanibus bestiis*. It also is contrary to the sense. Cicero's point is that the law of self-defence is common to animals as well as to man. *Feris beluis* would confine this statement to 'savage animals.' These, however, would naturally defend themselves: a stronger assertion is that *gentler* creatures will do so, e. g. the stag as well as the lion or tiger. That *fera belua* has this sense may be seen from e. g. ad Herenn. ii. 29 cum *feras bestias* videamus . . . vadere, ut alteri bestiae *noceant*, non est incredibile putandum istius quoque animum *ferum*, ib. iv. 51 *feram et truculentam* bestiam, Nat. D. ii. 161 immanes et *feras beluas* nanciscimur venando . . . *ut elephantes*, Verr. v. 109 cum *homine* enim *crudeli* nobis res est, an cum *fera* atque *immani belua? Ferae* on the other hand = 'the animal kingdom' in general, e. g. Rosc. Am. 63 cum etiam *feras* inter sese . . . natura ipsa conciliet. So in the somewhat similar passage de Or. ii. 168 ex similitudine . . . *si ferae* partus suos diligunt, qua nos in liberos nostros indulgentia esse debemus. At ex dissimilitudine, *si barbarorum* est in diem vivere, nostra consilia sempiternum tempus spectare debent.

semper vim, quacumque ope possent, a corpore, a capite, a vita sua propulsarent, non potestis hoc facinus improbum iudicare, quin simul iudicetis omnibus, qui in latrones inciderint, aut illorum telis aut vestris sententiis esse pereundum. Quod si ita 31 putasset, certe optabilius Miloni fuit dare iugulum P. Clodio, non semel ab illo neque tum primum petitum, quam iugulari a vobis, quia se non iugulandum illi tradidisset. Sin hoc nemo vestrum ita sentit, illud iam in iudicium venit, non occisusne sit, quod fatemur, sed iure an iniuria, quod multis in causis saepe quaesitum est. Insidias factas esse constat, et id est, quod senatus contra rem publicam factum iudicavit; ab utro factae sint incertum est; de hoc igitur latum est ut quaereretur. Ita et senatus rem, non hominem notavit, et Pompeius de iure, non de facto quaestionem tulit. Num quid igitur aliud in iudicium venit, 12 nisi uter utri insidias fecerit? Profecto nihil; si hic illi, ut ne sit impune; si ille huic, tum nos scelere solvamur.

Quonam igitur pacto probari potest insidias Miloni fecisse 32 Clodium? Satis est in illa quidem tam audaci, tam nefaria belua docere magnam ei causam, magnam spem in Milonis morte pro-

7. *illi non iug.* δ. sin: *si* P. 8. non *hoc loco* TEδ: *ante* illud P. 9. in causis saepe PE: *in causis iam saepe* T; *antea in causis iam* δ. 12. de hoc igitur latum est *om.* T. 16. tum nos TEδ: *ut* P. '*fort. tum ut nos*' Lambinus.

5. **optabilius**: sc. si optio data esset, elegisset. For *optio*, 'power to choose,' cf. Div. in Caecil. 45 *optionem* facturus sit, *ut eligas*, Rosc. Am. 30 conditionem misero ferunt, ut *optet*, utrum malit cervices . . . dare, an insutus in culleum, &c., with Landgraf's note.

non semel: 'only here in Cicero, who elsewhere uses *non semel sed saepius, plus quam semel*, or *semel et saepius*' [Reid].

6. **iugulari**: for the identification of *capitis deminutio* with the death-penalty see § 5 *n*. The verb is a familiar one in this connection: cf. the remark of Hortensius, *illum plumbeo gladio iugulatum iri*, Att. i. 16. 2. It generally has an invidious connotation, e. g. ad Herenn. iv. 51 uno iudicio simul multos *iugulaveritis*, Rosc. Am. 29 quem ipsi non potuerunt occidere, eum *iugulandum* vobis tradiderunt; that this is not always so is pointed out by Colson, who compares Quinct. 51 *iugulare* civem ne *iure* quidem quisquam bonus vult.

8. **non . . . sed**: the order in the other MSS. appear to me far more forcible than that in P. For the construction see § 11 *n*.

10. **insidias**: Cicero previously misquoted the sen. cons., by substituting *caedes, in qua occ. est Cl.* for *P. Clodi caedes*. He now further perverts it by substituting *insidiae* for caedes.

15. **profecto nihil**: 'as I hold, nothing.' Cf. § 2 *n*.

ut ne: '*ut ne* is more sonorous than *ne* and has an archaic ring. It is common in the comic poets, and frequent in Cic., e. g. Verr. ii. 148 it occurs four times. It is rare in later authors, e. g. Livy and Tacitus' [RH. p. 472]. According to Seyffert-Müller, Lael. p. 305, it brings out the idea of purpose, design, more strongly than *ne*. Here, as Dr. Reid remarks, the clause is a consecutive one. Cf. Fin. ii. 24 ex quo efficitur, non *ut* voluptas *ne* sit voluptas, and Reid on Sull. 27.

16. **sit impune**: cf. Tac. Ann. i. 72 dicta *impune erant*.

tum nos: this reading looks genuine, as more likely to be altered to *ut* [from *ut ne*] than vice versa.

positam, magnas utilitates fuisse. Itaque illud Cassianum 'cui bono fuerit' in his personis valeat, etsi boni nullo emolumento impelluntur in fraudem, improbi saepe parvo. Atqui Milone interfecto Clodius haec adsequebatur, non modo ut praetor esset non eo consule, quo sceleris facere nihil posset, sed etiam ut iis consulibus praetor esset, quibus si non adiuvantibus, at conniventibus certe, speraret se posse eludere in illis suis cogitatis furoribus; cuius illi conatus, ut ipse ratiocinabatur, nec cuperent reprimere, *si* possent, cum tantum beneficium ei se debere arbitrarentur, et, si vellent, fortasse vix possent frangere hominis
33 sceleratissimi corroboratam iam vetustate audaciam. An vero, iudices, vos soli ignoratis, vos hospites in hac urbe versamini? vestrae peregrinantur aures neque in hoc pervagato civitatis sermone versantur, quas ille leges, si leges nominandae sunt ac non faces urbis, pestes rei publicae, fuerit impositurus nobis

1. cui bono fuerit: *iudicium* Asconi codd. 4. haec: *hoc* δ. 5. facere nihil E: *nihil facere* Tδ. 6. iis χ, Manutius: *his* rell. codd. 7. *sperasset* δ. se posse Eδ: *posse se* T. 8. ipse: *ille* δ. nec cuperent reprimere, *si* possent, Madvig: *nec si cuperent reprimere possent* codd.; *nec si possent reprimere cuperent*, Manutius.

1. **Cassianum**: for Cassius see Ascon. ad loc., Rosc. Am. 84, Clu. 107, Val. Maximus, iii. 7. 9. Cicero describes him [Brutus 97] as 'homo non liberalitate, ut alii, sed ipsa tristitia et severitate popularis.' Landgraf remarks on Rosc. Am. 13 that the phrase *cui bono fuerit* is used seven times in Cicero always in speaking of judicial matters. Elsewhere it is only found Liv. vii. 12. 4 quin etiam *bono fuisse* Romanis adventum eorum. The proper answer to this 'rule of Cassius' is given, ad Herenn. ii. 4. I propose from this passage to correct the lemma of Ascon. by restoring *Cassianum, cui bono fuerit* as in Phil. ii. 35 for *Cassianum iudicium*, see *n.* ad loc.

2. **etsi boni**: Cicero makes this reservation to prevent the argument from being turned against himself. For a similar topic cf. ad Herenn. ii. 29.

3. **fraudem**: 'sin,' 'crime': cf. Rosc. Am. 58 haec te opinio falsa *in istam fraudem impulit*, de Inv. ii. 36 causa quae homines audaces *in fraudem rapere* soleat.

6. **iis consulibus**: i.e. Q. Metellus Scipio and Hypsaeus; cf. § 89 *suos consules*. It is highly improbable that these 'familiares' of Pompey would have 'winked at' the extravagancies of Clodius.

7. **eludere**: cf. Tac. Ann. xvi. 28 in isdem *furoribus* . . . *eludere* impune sinerent, a passage interesting as being 'the only direct imitation of Cicero in the historical writings of Tacitus' [Wirz].

8. **nec cuperent** . . .: cf. Brut. 287 *imitari neque possim si velim, nec velim fortasse, si possim*. A similar dislocation to that corrected here by Madvig occurs Senec. Ep. xv. 12 ne *si possis* quidem velis, where the MSS. give ne possis quidem *si velis*.

11. **an vero**: cf. Rab. Perd. 28 adeone *hospes es huiusce urbis* . . . ut *peregrinari* in aliena civitate . . . videare, Ac. i. 9, Att. vi. 3. 4.

14. **leges**: the only law of which we know was the oft-repeated proposal of the *populares* to enrol the freedmen equally in all the tribes, instead of confining them to the four city-tribes. Cicero refers to this, de Aere al. iv. 1 *nec suffragia dabis quibus ostentas*, ib. 2; cf Ascon. on § 87, and p. xvii. It is highly improbable that Clodius had any sweeping measures to propose, since these were rarely carried by a praetor, cf. § 34 *n.* As Cicero is not in a position to name any such, he assumes that they are already notorious.

omnibus atque inusturus? Exhibe, exhibe, quaeso, Sex. Clodi, librarium illud legum vestrarum, quod te aiunt eripuisse e domo et ex mediis armis turbaque nocturna tamquam Palladium sustulisse, ut praeclarum videlicet munus atque instrumentum tribunatus ad aliquem, si nanctus esses, qui tuo arbitrio tribunatum gereret, deferre posses. Et adspexit me illis quidem oculis, quibus tum solebat, cum omnibus omnia minabatur. Movet me quippe lumen curiae. Quid? tu me tibi iratum, Sexte, putas, cuius tu **13**

1. Exhibe, exhibe, E: *alterum* exhibe *post* Clodi Tδ. 2. *liberarium* T. 3. sustulisse T: *extulisse* E. 6. posses: duo fragmenta a Quintil. ix. 2. 54 et a Scholiasta Bob. p. 364. 14 servata, *An huius ille legis, quam Clodius a se inventam gloriatur, mentionem facere ausus esset vivo Milone, non dicam consule. De nostrum* [*nostrorum* cod. A] *omnium—non audeo totum dicere* [Quintil.]: et, *de nostrorum omnium, non audeo totum dicere. Videte quid ea vitii lex habitura fuerit, cuius periculosa etiam reprehensio est* [Schol.]: primus conglutinavit Garatoni, huc inseruit Peyron: eadem non ex hac quam habemus sumpta esse oratione, sed ex ea 'quae habita est pro Milone atque per ⟨ταχυγράφους excepta⟩,' testatur Scholiasta, admonuit Rau, demonstravit Gaumitz. 7. *tunc* Asconius. solebat *om.* Priscian, xviii. 300 [K. iii. 372]. omnia *om.* δ. 8. *Quid tu*? Rau. cuius tu Eδ: *cuius* T.

1. **exhibe, exhibe**: cf. Verr. i. 143 *dic, dic*, quaeso.

Sex. Clodi: Ascon. 34, 55.

3. **turbaque nocturna**: the riot really took place on the morning of the 19th *luce prima*, Ascon. 33.

Palladium: Cicero refers to the rescue of this from the flames by L. Caecilius Metellus in 250 B.C., cf. Scaur. ii. 48 *eripuit flamma Palladium*. For the history of the Palladium see Lanciani, p. 147.

sustulisse: I read with T, since E has a tendency to alter words; for the verb cf. Ovid, Fast. vi. 445 Pignora virgineis fatalia *tollite* palmis.

6. **et adspexit**: Quintil. ix. 2. 56 quotes this as an example of *brevior a re digressio*. Cicero ventures upon this *exornatio* from his want of facts. For the danger of such flights in actual pleading see Quintil. vi. 1. 43. The nexus of the passage is well shown by Rau, ii. 39 sq. *At ira excandescentis hominis vultum intuens*, inquit. 'Et adspexit me . . . lumen curiae': *tum ironice* 'Quid?' &c., *quasi ad eum placandum*. The intrusion by Peyron into this passage of the two fragments from the speech *actually delivered* by Cicero [see *cr. n.*] violently disturbed the connection of thought; and made it necessary to assume a previous lacuna—before *An huius ille legis*—since the law would be described before it could be thus alluded to, while another lacuna was suspected after *reprehensio est*. Quintilian does not say from what source his quotation comes: the scholiast is more precise, saying, *in oratione quae habita est pro Milone atque per* . . . Rau proposed after *per* to supply ⟨*scribas excepta*⟩, a brilliant guess. For *oratio quae habita est*, i.e. actually delivered, cf. Planc. 74 *oratio quae est* a me prima *habita* in senatu, de Or. iii. 2, Tusc. ii. 2: and for *excepta*, i.e. 'taken down' by shorthand writers, cf. Ascon. 42. n. Peyron had taken *atque per* to be part of the quotation, and supplied after per [*multas leges*, &c.], thus further corrupting the sense. Gaumitz has improved upon Rau's conjecture by suggesting ⟨ταχυγράφους *excepta*⟩, since a Greek word would more easily be left out by a scribe. He argues at great length against the *supplementum Peyronianum*, but strangely enough does not mention Rau, and still more strangely is quoted by recent editors as the author of a *new* view of the passage.

8. **lumen curiae**: cf. § 37 *lumen* . . . reipublicae, § 21 *ipsa lumina*, and Phil. xi. 13, 14, 24, Off. iii. 66. Cicero is jesting. Not only is Sextus a 'light,' but he set the senate-house on fire.

Sexte: Cicero calls him by his praenomen, as frequently, to avoid confusion with his master; cf. Dom. 47 *Sexte noster*, bona venia, dic, quoniam iam dialecticus es.

inimicissimum multo crudelius etiam poenitus es, quam erat humanitatis meae postulare? Tu P. Clodi cruentum cadaver eiecisti domo, tu in publicum abiecisti, tu spoliatum imaginibus, exsequiis, pompa, laudatione, infelicissimis lignis semustilatum, nocturnis canibus dilaniandum reliquisti. Qua re etsi nefarie fecisti, tamen, quoniam in meo inimico crudelitatem exprompsisti tuam, laudare non possum, irasci certe non debeo.

34 ⟨*Videtis, iudices, quantum Clodi inter*⟩fuerit occidi Milonem; convertite animos nunc vicissim ad Milonem. Quid Milonis intererat interfici Clodium? quid erat cur Milo non dicam ad-

1. poenitus P: *penitus* T; *punitus* Eδ. 4. semustilatum, edd. recc.: *semustulatum* δ; *semiustilatum* E; *semiustulatum* T. 5. nefarie TE: *necessarie* δ. 7. *post* debeo *lac. indicant edd. plerique.* 8. . . . fuerit . . . sibi solutam, *om.* codd. praeter P. *audistis* [*videtis* vel *habetis* alii] *quantum Clodi inter*fuerit *suppl.* Peyron: *fuerit* P.

1. **poenitus es**: the deponent form occurs also Phil. viii. 7, Tusc. i. 107, Off. i. 88, &c., see Neue, iii. 82. Quintilian in his quotation of the present passage gives it as an example of the deponent used instead of the active for decorative purposes: so also *fabricatus est gladium*, ib. (Rab. Post. 7). It is therefore singular that Cobet, Mnem. 1879, p. 146, on Phil. l. c. should have remarked '*poeniri* pro *punire* poni posse quis Latine sciens serio credere poterit?' Cf. Hellmuth, p. 119, for a list of verbs used by Cicero either as actives, or deponents.

3. **imaginibus**: Guhl and Koner, p. 714, ed. 6.

4. **infelicissimis**: 'unblessed,' on the analogy of *arbor infelix*, the accursed tree, or gallows. The irregular cremation of Clodius is regarded as a last insult to his remains.

semustilatum: a violent exaggeration, cf. § 86 *amburetur*. Similar language is used of Caesar's *insepulta sepultura*, Phil. ii. 91.

7. **laudare . . . debeo**: i.e. *quamquam* non possum . . . non debeo. The first clause is logically subordinate, but grammatically coordinate with the second, cf. Leg. iii. 22 *quam ob rem . . .* Pompeium . . . ceteris rebus *ecfero* laudibus, de tribunicia potestate *taceo*. The argument of Cicero is summed up by Victorinus, p. 246, who quotes it as an example of a *quinquepertita argumentatio*, thus, 'talis in Miloniana oratione syllogismus est, *si*, inquit, *doceo causas fuisse Clodio, ut occideret Milonem, probo insidiatorem*. Hanc propositionem approbavit, *etsi boni . . . saepe parvo*. Deinde ipsam speciem assumit per confirmationem: *habuit autem causas Clodius*. Hanc rursus assumptionem multis rationibus approbat: postremo concludit: *quare si habuit causas Clodius, ut occideret Milonem, constat insidiatorem fuisse*.' As this *conclusio* does not appear in our text, recent editors mark a lacuna. Peyron, arguing from the number of lines contained in a fol. of P, had calculated that the missing *folio* —containing *etsi nullo* § 32 . . . *fuerit occidi* § 34—would require to fill it four or five more lines, than are given in our MSS., using this argument to justify his insertion above. The lacuna here is supposed to be of this length: '*desunt quinque fere versus*' Nohl. The words of Victorinus however, who is quoting very loosely, need not mean that the conclusion is *expressed*. On internal evidence I should look on the argument as complete. Cicero, through want of facts, has ventured upon a striking *exornatio* in the shape of an attack upon Sex. Clodius. After this display of stage passion he quits the subject, before the hearer recollects that after all nothing has been proved. I should be curious to see a *resumé*, which would not create a bathos [see p. liii]. The argument from the number of lines contained in P is unreliable, since we do not know how much is lost in the new sentence before *-fuerit occidi*.

10. **non dicam**: a stronger form for *non dico*, cf. the fragment from the first speech [*cr. n. supr.*], vivo Milone, *non dicam* consule. *Ne dicam* qualifies a strong assertion, and almost = *prope dix-*

mitteret, sed optaret? 'Obstabat in spe consulatus Miloni Clodius.' At eo repugnante fiebat, immo vero eo fiebat magis, nec me suffragatore meliore utebatur quam Clodio. Valebat apud vos, iudices, Milonis erga me remque publicam meritorum memoria, valebant preces et lacrimae nostrae, quibus ego tum vos mirifice moveri sentiebam, sed plus multo valebat periculorum impendentium timor. Quis enim erat civium, qui sibi solutam P. Clodi praeturam sine maximo rerum novarum metu proponeret? solutam autem fore videbatis, nisi esset is consul, qui eam auderet possetque constringere. Eum Milonem unum esse cum sentiret universus populus Romanus, quis dubitaret suffragio suo se metu, periculo rem publicam liberare? At nunc, Clodio remoto, usitatis iam rebus enitendum est Miloni, ut tueatur dignitatem suam; singularis illa et huic uni concessa gloria, quae cotidie augebatur frangendis furoribus Clodianis, iam Clodi morte cecidit. Vos adepti estis, ne quem civem metueretis; hic exercitationem virtutis, suffragationem consulatus, fontem perennem gloriae suae perdidit. Itaque Milonis consulatus, qui vivo Clodio labefactari non poterat, mortuo denique temptari coeptus est.

2. at eo, Peyron: *adeo* P. 8. *voc.* deč [i.e. deest] *ante* P. Clodi *add.* E. metu: *motu* δ. 9. autem *om.* Tδ. 12. nunc: *non* δ. 13. Clodiò PE: *P. Clodio* Tδ. remoto *om.* δ. 14. et P: *om.* rell.

erim, e.g. Deiot. 2 crudelem Castorem, *ne dicam* sceleratum et impium.

admitteret: i.e. hoc scelus, to be supplied from *interfici Cl.*

3. **me suffragatore**: for the exertions of Cicero on behalf of Milo see p. xx. Reid points out that *suffragator* always means 'canvasser,' not 'voter,' in good Latin. Cf. Ascon. on § 37.

5. **tum**: i.e. during the whole period of his candidature Wirz explains it of a particular occasion, e.g. a *contio*, or in the senate during the *Interrogatio de aere alieno Milonis*. This needlessly restricts the sense. Cicero's tears would always flow readily in such a cause, Planc. 76.

7. **impendentium timor**: the diiambic clausula *-ĭŭm tĭmōr*, is a very unusual rhythm, Wüst, p. 66, and § 45 *n.*

9. **is consul**: the *imperium* of Clodius as praetor would be inferior to that of the consuls. Cf. Aul. Gell. xiii. 15. 4, who quotes Messalla as saying 'imperium *minus* praetor, *maius* habet consul.' As previously remarked on § 33, Cicero much exaggerates the powers which Clodius would have had for doing harm. Although the *praetor* had the *ius agendi cum populo*, Leg. iii. 10, it was not usual for him to exercise it, when the consuls were present. See Momms. Staatsr. i. 192. n. 7.

10. **constringere**: for the metaphor cf. § 40.

unum . . . universus: a favourite assonance of Cicero, cf. § 90 *n.*

15. **cotidie**: one would have expected *in dies*, since his fame was growing from day to day. Many parallels are however to be found; cf. Fin. iv. 65 hi . . . levantur *in dies*; valet alter plus *cotidie*. An instructive case is Att. v. 7. 1 *cotidie* vel potius *in dies singulos*, where he corrects himself. See Tyrrell on Att. i. 20. 7 *cotidie magis* . . . conquiesco.

16. **ne**: Reid points out that 'this *ne*-clause in place of the ordinary accus. after *adipiscor* is possibly unique. An isolated example of an *ut*-clause occurs Verr. ii. 51.'

19. **coeptus est**: 'in Cicero and Caesar *coepi* is regularly used with the infin. act., and *coeptus sum* with the infin. pass.;

Non modo igitur nihil prodest, sed obest etiam Clodi mors Miloni.

35 'At valuit odium, fecit iratus, fecit inimicus, fuit ultor iniuriae, poenitor doloris sui.' Quid? si haec non dico maiora fuerunt in Clodio quam in Milone, sed in illo maxima, nulla in hoc, quid vultis amplius? Quid enim odisset Clodium Milo, segetem ac materiam suae gloriae, praeter hoc civile odium, quo omnes improbos odimus? Ill*i* erat, ut odisset primum defensorem salutis meae, deinde vexatorem furoris, domitorem armorum suorum, postremo etiam accusatorem suum. Quo tandem animo

1. Clodi P: *P. Clodii*-TEδ. 4. poenitor T; *poenitur* P; *paenitor* E; *punitor* δ. 7. materiam P. Quintil. viii. 6. 7, cod. A: *materiam* TEδ. 8. ill*i*, scripsi: *ille* codd. *salutis meae defensorem* E. 10. suum: *reus enim lege Plotia* [*P. Clodi* P] *fuit Clodius, quoad vixit* add. codd. del. Bake.

the only exception to this rule being with *fieri*, which is treated as a deponent, and not as a passive, e. g. Brut. 106 plura *fieri* iudicia *coeperunt*' [Krebs-Allg.]. For *coepisse* in a transitive sense see § 95 *n.*

1. **prodest ... obest**: cf. Off. i. 42, ii. 72. 86.

4. **poenitor**: Cicero apparently coined the substantive to serve as a synonym for *ultor*, a sense in which it was afterwards employed by Val. Max. iii. 4. 5. In Suet. Caes. 67 it = 'punisher.'

6. **segetem**: cf. Quintil. viii. 6. 7 for the metaphor.

7. **materiam**: Zumpt laid down the rule that in this and similar forms, e.g. *luxuria, -es, barbaria, -es*, Cicero preferred the fifth decl. in the nom. (and acc.), and the first decl. in the oblique cases [on Verr. ii. 7]. His canon however is not always borne out by the MSS., cf. Madvig, Fin. iii. 61, ed. 2, Neue, i. 371. It is clear that the variants are often due to a corrector, e. g. Flacc. 5, the Schol gives *luxuriaes*, i. e. *luxuria*, so Verr. v. 137, R gives *luxuriae* i. e. *luxuriae*. The rule of Fronto, *de diff. voc.* [Keil, vii. 531] '*materies* animi est, *materia* arboris,' is, at any rate in Cicero, in flat contradiction to the MSS. readings, e. g. § 74, Verr. i. 147, v. 47, &c. Indeed in the sense of 'timber' he seems to have preferred *materies*.

odium quo odimus: for the etymological abl. cf. Catull. xiv. 3, Liv. ii. 58. 5 and the very valuable dissertation of Landgraf, *de figura etym.* [Act. Erl. ii. p. 31.]

8. **ill*i* erat, ut odisset**: *erat ut* is probably used for *erat cur*, cf. Cael. 14 *est, ut* ipse moleste ferat errasse se. The emendation which I offer is a simple one, since *i* and *e* are continually confused, and removes the hyperbaton of *ille*, which does not seem to me Ciceronian. [The same suspicion has occurred to Novák, who says, '*fort.* illi erat.'] If *ille* is retained, it is put in the front of the sentence for emphasis. Another explanation of the passage is that *ille erat ut odisset* is a periphrasis for *ille oderat*, 'it was a fact that' [Wirz]. Cf. Orat. 199 *est* autem, *ut* id maxime debeat, non ut solum.

10. **accusatorem suum**: Milo accused Clodius *de vi* twice, § 39. The addition *reus enim ... quoad vixit* was condemned by Bake as bad Latin, apparently on account of the strange expression *reus Milonis*, for which, however, Reid quotes Verr. A. P. 6 *reum suum*, and Hor. Sat. ii. 4. 3 *Anyti reum* (for *reus lege Plotia* cf. Madv. Ep. Cr. p. 52 on *reus lege Cornelia*, &c.). The sense of the words is somewhat dark. Zumpt, p. 513, is generally referred to. He says 'the statement is somewhat unusual, as the case was also unusual. The sense is that Clodius, so long as he lived, was not acquitted of the charge. The suit against him was never ended.' The sentence is far more Ciceronian, when this very inept gloss is excised. For the structure cp. § 58 *conservatores* domini, *ultores* sceleris, *defensores* necis, Sest. 125 Ubi erant tum illi contionum *moderatores*, legum *domini*, civium *expulsores*?

hoc tyrannum illum tulisse creditis? quantum odium illius et in homine iniusto quam etiam iustum fuisse?

Reliquum est, ut iam illum natura ipsius consuetudoque **14** defendat, hunc autem haec eadem coarguant. 'Nihil per vim **36** umquam Clodius, omnia per vim Milo.' Quid? ego, iudices, cum maerentibus vobis urbe cessi, iudiciumne timui? non servos, non arma, non vim? Quae fuisset igitur iusta causa restituendi mei, nisi fuisset iniusta eiciendi? Diem mihi, credo, dixerat, multam irrogarat, actionem perduellionis intenderat, et mihi videlicet in causa aut mala aut mea, non et praeclarissima et vestra, iudicium timendum fuit. Servorum et egentium [civium] et facinorosorum armis meos cives meis consiliis periculisque servatos pro me obici nolui. Vidi enim, vidi hunc ipsum Q. Hor- **37**

1. illum P: *om.* rell. 4. *coarguat* Bake. 6. iudiciumne timui *om.* σ. *Milo attulit, intentavit* sχ in mg. 10. *aut vestra mala aut mea nec praecl. et iudic.* δ. non et, Fabricius: *non ei* TE. 11. [civium], *inclusi.*

1. **illius**, i. e. Clodi, cf. § 56 *n.* The genitive is subjective.

2. **iustum**: Cic. uses the adj. in two senses here, sc. 'just' and 'deserved.' For *iustum odium* cf. Cat. i. 17, Prov. Cons. 6, Pis. 33, Phil. xiii. 6; and for the antithesis § 11 *supr.*

6. **urbe cessi**: Cicero is fond of describing his exile in this way; cf. de Aere al. ii. 1 *nec vero tum timendum fuit, cum cessimus.*

iudiciumne timui: i.e. either (1) before the people, cf. Verr. i. 13 de *iure* enim libertatis et *civitatis* suum putat (pop. Rom.) esse iudicium, et recte putat; or (2) before a *quaestio extraordinaria*, such as that which had tried Clodius himself.

8. **diem . . . dixerat.** As tribune Clodius could impose upon Cicero either a fine, cf. Dom. 58, or a sentence affecting his status, *caput*. In either case there would have been a right to appeal, de Leg. iii. 6 cum magistratus iudicassit inrogassitve, per populum multae poenae certatio esto. The second method, sc. *de capite*, was now obsolete, though it had been revived in the case of Rabirius. The *multae irrogatio* was still in use, and frequently employed by the tribune or curule aedile. Thus Cicero threatens to use it against Verres, in case of an acquittal, Verr. i. 13, 14, v. 173. The conduct of these trials is described, Dom. 45. The magistrate brought forward the accused, stated the offence, and the penalty proposed—*de capite, de pecunia anquirere*; he then *dixit diem*, and on that *prodixit diem*, a proceeding again repeated. On the fourth occasion he gave his sentence, and if he condemned, the *provocatio* was fixed for the *trinum nundinum* (Mommsen, Staatsr. iii. 356). Thus in 56 B.C. Clodius, as curule aedile, summons Milo. The case was heard on Feb. 2nd and 6th, the final hearing fixed for the 17th, and the voting for May 7th. Q. F. ii. 3. 1–5, ib. 5 [7], Fam. i. 5 *b*. 1. The curule aedile would convene the *comitia tributa*, the tribune the *concilium plebis*, unless the case was a capital one. If so, he would ask the praetor urbanus to fix a day for the trial, which would enable him to convene the *centuriata*. Livy xxvi. 3, Varro, L. L. vi. 90.

credo: ironical, as in § 88.

10. **non et**: for the corruption in the MSS. (non *ei*) cf. Madv. Ep. Crit. p. 70 on Verr. iv. 56; and Ascon. 42 *et* forte occurrisse (*ei* f. occ. MSS.).

11. **egentium**: the addition of *civium* appears to strike a false note. Cicero affects to consider all *cives* on his side, e.g. § 3 multitudo, quae quidem est civium, *tota nostra est*. He generally uses *egens* as a substantive, e.g. Dom. 79 non solum *egentium*, sed etiam servorum.

13. **Q. Hortensium**: cf. Dio C. 38. 16.

tensium, lumen et ornamentum rei publicae, paene interfici servorum manu, cum mihi adesset; qua in turba C. Vibienus senator, vir optimus, cum hoc cum esset una, ita est mulcatus, ut vitam amiserit. Itaque quando illius postea sica illa, quam a Catilina acceperat, conquievit? Haec intenta nobis est, huic ego vos obici pro me non sum passus, haec insidiata Pompeio est, haec viam Appiam, monimentum sui nominis, necc Papiri

1. *incipit* H *post lac. in voc.* terfici [*sic*]. 3. cum hoc: *del.* Garatoni. mulcatus H: *multatus* TEδ. 4. *sica, illa quam* Richter. 5. intenta H, Ascon. in lemmate, eiusdem in scholio codd. SM.: *intentata* TEδ. 6. *obici vos* Ascon. *passus non sum*, Ascon. in lemmate, sed in scholio, *non sum passus*. 7. viam Appiam, Ascon.: *ista viam Appiam* H; *istam Appiam* TEδ.

2. **turba**: frequently used of a riot, e. g. Q. F. ii. 3. 2 nos quoque tum fugimus, *ne quid in turba*.

C. Vibienus: this passage is irreconcileable with the MSS. reading in Ascon. 33 compluresque noti homines *elisi* sunt, *inter quos C. Vibienus senator*, i. e. in the riot after Clodius' death. Various suggestions have been made. Halm thinks that Cicero made a mistake. Such a blunder, however, is hardly credible, and Asconius, who is so much interested in the accuracy of Cicero, could not have failed to point it out. Kraffert boldly brackets *qua in . . . amiserit*, as interpolated from Asconius! Wirz more sensibly suggests, that the words in Asconius, *inter quos C. Vib. senator*, are interpolated from this passage, a view which to my mind is verified by the conjecture of Rinkes, who emends in Ascon. *visi* for *elisi* (omitting *inter . . . senator*), and thus improves the meaning in Asconius, and removes the contradiction between him and Cicero.

3. **vir optimus**: cf. § 21 *n.*

cum hoc cum esset: Garatoni was struck by the inelegance of the repeated *cum*, and thought that *cum hoc* was an addition. Cf. § 48 *una fui* [*cum Clodio*] n. There is, however, no variety in our MSS., and that Cicero's ears did not object to the repetition, may be seen from Reid on Sull. 16, and Tyrrell on Fam. ix. 6. 3.

mulcatus: the only other reference for this verb in the speeches is Verr. iv. 94, where also it is misspelt [sc. *mult.*, or *mulct.*] except in the best MSS.

4. **amiserit**: see Madv. 382, obs. 1, RH. p. 424 sq. for the tense.

5. **a Catilina acceperat**: cf. § 55 with the note of Asconius. In Att. i. 14. 5, Cicero calls the friends of Clodius *grex Catilinae*, and Pis. 23 describes Clodius as *Catilinae praevaricatore quondam, tum ultore*. The charge shows some ingratitude, since during the conspiracy Clodius was one of Cicero's body-guard! [Plut. Cic. 29.] Drumann (ii. 277) strangely says 'man entriss ihm den Dolch, angeblich ein Geschenk Catilinas,' apparently taking the words literally of an actual present!

intenta: 'pointed at,' cf. Pis. 5 tela *intenta* iugulis, Har. Resp. 7 si quod in me telum *intenderit*, &c. The variant *intentata* would = 'brandished,' cf. Rosc. Am. 101 volumen *intentasse* et minitatum, a reference which I owe to Mr. Poynton. Merguet gives no other quotation for *intentare* in the speeches besides the present passage. For the corruption cf. § 24 *tracta* [*tractata* codd.]; so § 67 for *intenta* σ gives *intentata*. The editors of Asconius have corrupted his text by printing *intentata*, although *intenta* is vouched for in his lemma by all three of the chief MSS., and in the scholium by the two best of them.

6. **obici pro me . . . insid. Pompeio**: see Ascon. ad loc.

7. **viam Appiam**: I read with Asconius. *Istam* appears to be an addition, which is combined with *viam* in H, and has expelled it in the other MSS.

sui: 'so used as if the subject of the sentence was *Clodius sicarius*, instead of *sica*' [Halm]. Cf. § 84 *n.*

Papiri: Ascon. l. c., and § 18 *supr.*

cruentavit, haec eadem longo intervallo conversa rursus est in me; nuper quidem, ut scitis, me ad Regiam paene confecit.

Quid simile Milonis? cuius vis omnis haec semper fuit, ne 38
P. Clodius, cum in iudicium detrahi non posset, vi oppressam civitatem teneret. Quem si interficere voluisset, quantae quotiens occasiones, quam praeclarae fuerunt! Potuitne, cum domum ac deos penates suos illo oppugnante defenderet, iure se ulcisci? potuitne civi egregio et viro fortissimo, P. Sestio, collega suo, vulnerato? potuitne Q. Fabricio, viro optimo, cum de reditu meo legem ferret, pulso, crudelissima in foro caede facta? potuitne L. Caecili, iustissimi fortissimique praetoris, oppugnata domo? potuitne illo die, quo est lata lex de me? cum totius Italiae concursus, quem mea salus concitarat, facti illius gloriam libens agnovisset, ut, etiam si id Milo fecisset, cuncta civitas eam laudem pro sua vindicaret. At quod erat tempus! Cla- 15 39

1. *haec, haec* E. est *om.* E. 2. me *om.* Ascon. 12. quo H: *cum* TEδ. 14. agnovisset Hδ *om.* T; *adcognovisset* E. *ut etiam, si* Lehmann.

1. **longo intervallo**: apparently in 53 B.C.

2. **ad Regiam**: see Ascon. ad loc., whose anxiety to maintain the orator's reputation for veracity is somewhat naive. The words *ut scitis* will suggest to a modern reader, that the anecdote is apocryphal: cf. § 33 *n.* We know from the letters of one attack made by Clodius upon Cicero near this spot, but this was on Nov. 11th, 57 B.C., which hardly agrees with *nuper*, cf. Att. iv. 3. 3 ante diem III Id. Nov. cum *Sacra Via* descenderem, insecutus est me cum suis.

6. **potuitne**: this is repeated five times. For similar anaphorae cf. § 67 *si* repeated eight times, and §§ 72, 73 *eum cuius . . . eum quem*, &c.

domum: Clodius attempted to storm this and set it on fire on Nov. 11, 57, Att. iv. l. c. The siege was relieved by a sally made by Q. Flaccus, and Clodius fled to his own fortress, the house of P. Sulla directly opposite.

8. **civi**: for this form of the abl. cf. Sest. 61. 78, and RH. n. 80. Cicero is fond of coupling *civis* and *vir*, e.g. § 66, Sest. 62, &c.

P. Sestio: tribune in 57 B.C. According to Cicero [Sest. 85] he received more than twenty wounds in this fray! His friends found him a difficult person to live with. He had a disagreeable temper, and wrote in an execrable style [Att. vii. 17. 2, Fam. vii. 32. 1, Catull. xliv]. He was tried in this year under Pompey's laws, and defended by Cicero [see p. xiii].

9. **Q. Fabricio**: cf. Sest. 75 sq. for the story, Sen. 22.

11. **L. Caecili**: as the researches of Ascon. (*q. v.*) were not successful in identifying the occasion referred to, it is probable that the occurrence was an insignificant one. Reid remarks that 'Cicero lays stress upon the justice and courage of Caecilius *as praetor*: otherwise he would have said *L. Caec. praetoris, iust. fortissimi viri.*'

12. **illo die, quo**: so Att. iv. 1. 4 *illo die, quo lex est lata de nobis.* The variant *cum*, for which cf. Sen. 4, 26, may be due to the *cum* in the following clause. The day in question was Aug. 4, 57.

13. **salus**: 'recall,' cf. § 39 restitutor *salutis* meae, and § 5 *n.*

14. **libens**: Brambach, pp. 108, 118, says, that this spelling was preferred by the grammarians, although *lu-* was more archaic.

15. **at quod**: '*at* adducimus, si rem quam per se gravem esse significavimus, augemus,' Madv. Ep. Cr. p. 129, cf. Brut. 65 Catonem . . . quis novit omnino? *At quem* virum, di boni!

rissimus et fortissimus vir consul, inimicus Clodio, P. Lentulus, ultor sceleris illius, propugnator senatus, defensor vestrae voluntatis, patronus publici consensus, restitutor salutis meae; septem praetores, octo tribuni pl. illius adversarii, defensores mei; Cn. Pompeius auctor et dux mei reditus, illius hostis, cuius sententiam senatus omnis de salute mea gravissimam et ornatissimam secutus est, qui populum Romanum est cohortatus, qui cum decretum de me Capuae fecisset, ipse cunctae Italiae cupienti et eius fidem imploranti signum dedit, ut ad me restituendum Romam concurreret; omnia tum denique in illum odia civium ardebant desiderio mei, quem qui tum interemisset, non de

1. vir consul H : *consul* TEδ. P. Lentulus *del.* Bake. 2. *illius publici* δ. 4. pl. HE : *plebei* T ; *plebis* δ. *illius Clodii* E. 6. omnis *om.* E, Bake. 8. decretum de me HE: *de me decretum* Tδ. fecisset HTδ: *fecit* E. 9. et . . . imploranti *del.* Wirz. 10. concurreret H, Richter : *concurrerent* rell. omnia tum, codd.: *omnium* Heumann.

1. **vir**: with this reading *consul* is a predicate, while *inimicus . . . ultor*, &c. are in apposition to *vir*. For the position of *P. Lentulus* Nohl compares de Or. iii. 4. 38. 87.

3. **septem praetores**: the only recusant was Appius Claudius Pulcher, the elder brother of Clodius. For his subsequent reconciliation with Cicero see § 75 *n.*

4. **octo tr. pl.**: i.e. all except Q. Numerius Rufus, and Atilius Serranus, Sest. 87.

6. **omnis**: cf. Caes. B. G. iii. 16 *omni* senatu necato.

7. **qui pop. Rom.**: cf. Sest. 107.

8. **Capuae**: sc. as *duumvir*. In Dom. 75 we hear of *municipiorum et coloniarum et totius Italiae decreta*. Cicero alludes gratefully to the vote passed by Placentia on this occasion, Ascon. in Pison. § 4. The decuriones of Capua afterwards passed a *decretum* in honour of Sestius, Sest. 9. 10. Capua does not appear to have borne any ill-will to Cicero, on account of his attack upon the town in 63 B.C., Leg. Agr. ii. 95, since immediately afterwards he was selected as *patronus* by the *conventus* there. The town received municipal organization from Caesar in 59 B.C. Previously it had been merely 'a storehouse and granary' for the tillers of the *ager Campanus*.

fecisset: the variant *fecit* is perfectly good Latin, 'marking the two actions as contemporaneous, or as two different aspects of the same action' [Reid]. The agreement of T with H is, however, somewhat against it: see p. xli.

9. **eius**: used for *suam*, since *et imploranti = cum . . . imploraret*. Wirz very infelicitously bracketed *et . . . imploranti*. The homoioteleuta *cupienti . . . imploranti* form a thoroughly Ciceronian assonance, cf. § 61 *audienti . . . metuenti*, &c., Lig. 3 domum *spectans*, ad suos redire *cupiens*, Orat. 1, 35, Parad. 49, &c. For the words cf. Pis. 80, Dom. 30.

10. **concurreret**: Cicero constantly personifies Italy in this connection; cf. Pis. 34 *Romam* uno tempore, quasi signo dato, *Italia tota convenit*, Sest. 87, 107, 131, Sen. 25, &c., Plut. Cic. 33 ἔφη γὰρ αὐτὸν ἐπὶ τῶν ὤμων τὴν Ἰταλίαν φέρουσαν εἰς τὴν Ῥώμην εἰσενεγκεῖν. Richter deserves great credit for his successful conjecture. The alteration to the plural would naturally be made by an ignorant corrector.

omnia . . . odia: cf. Sen. 25 *omnia* privata *odia* deposuit. For the hypallage, i.e. = *omnium . . .* odia, cf. Rep. ii. 1 *una* hominis vita, i.e. = unius hominis vita, Vell. ii. 94. 4 *omnibus* virtutum experimentis, Tac. Ann. iii. 62 multa *alia* imperatorum nomina, RII. n. 522. I see no reason for the universally accepted conjecture of Heumann, sc. *omnium* for *omnia tum*. If any correction is needed, I would strike out *tum* as possibly introduced from the next line. The triple repetition of *tum*, however, is not without force, as emphasising the statement that *then* was the time for action. It is, of course, not to be taken with *denique* here.

11. **quem qui** = *ut si quis eum* [Halm].

impunitate eius, sed de praemiis cogitaretur. Tum se Milo continuit et P. Clodium in iudicium bis, ad vim numquam vocavit. Quid? privato Milone et reo ad populum accusante P. Clodio, cum in Cn. Pompeium pro Milone dicentem impetus factus est, quae tum non modo occasio, sed etiam causa illius opprimendi fuit! Nuper vero, cum M. Antonius summam spem salutis bonis omnibus attulisset gravissimamque adulescens nobilissimus rei publicae partem fortissime suscepisset atque illam beluam iudici laqueos declinantem iam irretitam teneret, qui locus, quod tempus illud, di immortales, fuit! Cum se ille fugiens in scalarum tenebras abdidisset, magnum Miloni fuit con-

1. tum HTE Nohl^2 : *tamen* δ. 2. bis : *de vi* Jeep. 3. P. *om.* H.
11. tenebras HEsχ : *tenebris* Tσ.

1. **tum** : 'on all these occasions' : *tum* corresponds to the repeated *cum* in the previous sections. The variant *tamen* gives an equally good sense, and the confusion in MSS. [sc. between *tũ* and *tñ*] is constant.

2. **in iudicium bis** : the first occasion was early in 57 B.C., before the recall of Cicero. It was because he was frustrated in his attempt to get legal redress, that, according to Cicero, Milo then used *vis*. This first accusation is referred to, Sen. 19 *primo de vi postulavit*, Sest. 89 *descendit ad accusandum*. He was foiled by Metellus Nepos, who would not allow a jury to be empanelled, or the courts to sit, Sest. l. c., Dio C. xxxix. 7. The second occasion is referred to in a letter of Cicero, written in Nov. 57, *reum Publium . . . fore a Milone puto*, where also he refers to the previous charge, *antea, cum iudicium nolebat*, Att. iv. 3. 2. On this occasion the friends of Clodius contended that the election of aediles, for which post he was standing, should take place before any *iudicia*. That Metellus Nepos took the lead then also would appear from a letter of his written in 56, where he says '*bis* eum invitum servavi,' Fam. v. 3. 2. These two occasions have been confused by many commentators. It is worthy of notice that in the Har. Resp.—delivered in May 56 [Rauschen, Ephem. Tull. pp. 13, 41]—a *third* prosecution of Clodius by Milo is talked of as impending : numquam (sc. *Miloni*) . . . praeripiam eum praesertim *reum* § 7 : diem dixisset, ut fecerat, *fecissem ut ei statim tertius a praetore dies diceretur*, ib. This can only mean that Milo, then a *privatus*, threatened to accuse Clodius, then curule aedile. For this there were ancient precedents, though the practice had become obsolete. Varro *ap.* Aul. Gell. xiii. 13 says, 'M. Laevinus, *aedilis curulis a privato* ad praetorem in ius est vocatus.' Cf. Ascon. on § 88 *n.* The conjecture of Jeep in this passage, *de vi* for *bis*, is ingenious, but perverse. Cicero constantly opposes *vis* and *iudicium* § 70 *n.* They form one antithesis, and *bis . . . numquam* another.

3. **privato Milone** : sc. in 56 B.C. after his tribunate.

4. **Cn. Pompeium** : on Feb. 6, 56. Pompey got through his speech in spite of constant interruption. The riot was commenced by the 'gangs' of Clodius, but eventually the optimates charged, and stormed the rostra. Cf. Q. F. ii. 3. 2, infr. § 68, and § 36 *n.*

6. **M. Antonius** : in 53 B.C., when standing for the quaestorship. He had previously been a friend of Clodius during the latter's tribunate, and was now one of the accusers [Ascon. 42], being probably already under the influence of Fulvia. Cicero relates this story, in order to show the inconsistency of Antony. So in § 75 he dwells upon the outrageous conduct of Clodius to his brother Appius, now the father by adoption of the *Appii fratres*, who were prosecuting. Cf. § 75 *n.*

11. **in scalarum tenebras** : Ascon. in Cornel. tells a similar story. The Cominii brothers accused Cornelius, and were attacked by *noti operarum duces*. The Cominii 'cum *in scalas quasdam fugissent*, clausi in noctem ibi se occultaverunt, deinde per tecta vicinorum profugerunt ex urbe.' The accusative *tenebras* is the regular idiom with *abdere* in Cicero, e. g. Pis. 93 *domum se abdidit*, except with the

ficere illam pestem nulla sua invidia, M. vero Antoni maxima
41 gloria! Quid? comitiis in campo quotiens potestas fuit! cum ille
in saepta irrupisset, gladios destringendos, lapides iaciendos
curasset, dein subito vultu Milonis perterritus fugeret ad Ti-
berim, vos et omnes boni vota faceretis, ut Miloni uti virtute
sua liberet.

16 Quem igitur cum omnium gratia noluit, hunc voluit cum
aliquorum querella, quem iure, quem loco, quem tempore, quem
impune non est ausus, hunc iniuria, iniquo loco, alieno tempore,
42 periculo capitis non dubitavit occidere? praesertim, iudices,
cum honoris amplissimi contentio et dies comitiorum subesset,
quo quidem tempore, scio enim, quam timida sit ambitio quanta-
que et quam sollicita sit cupiditas consulatus, omnia, non modo
quae reprehendi palam, sed etiam quae obscure cogitari possunt,
timemus, rumorem levem, fictam fabulam perhorrescimus, ora

1. M. *s*: *Marci* H; *om.* TE$\sigma\chi$. 3. inrupisset H$s\chi$: *ruisset* TEσ. 4. curasset H: *curavisset* rell. codd. 7. omnium: *aliqua* Quintil. v. 14. 3 codd. A B; *om.* Isidorus, p. 512, et Cassiodorus, p. 499. 8. quem impune, *om.* Quintil. Isid. Cassiod. 10. *cum periculo*, Quintil. Isid. Cassiod. 13. quam *om.* H. sit *om.* δ: *del*: Garatoni. 14. quae obscure HE*s*χ: *obscure quae* Tσ. 15. rumorem levem, fictam fabulam: scripsi e vestigiis cod. H. ubi est *rumorem fictam levem*, ex iisdem *rumorem levem, fabulam fictam* Modius, *rumorem fictum, auram levem* Nettleship; *rum. fab. fictam falsam levem* T, *rum. fab. falsam fictam levem* E, *rum. fab. fictam falsam* δ.

perf. part. passive, when *in* and the *abl.* are employed. Otherwise the abl. with or without *in* is only found in silver-age writers, and occasionally in Livy [Krebs-Allg.]

11. p. 37. **magnum**: cf. Tusc. D. iii. 84 *magnum* opus et *difficile*, quis negat? quid autem praeclarum non idem *arduum*?

2. **comitiis**: 'at the elections,' so Att. i. 1. 1. Cf. *gladiatoribus* Att. ii. 19. 3, *ludis* Phil. vi. 11, *sollemnibus* Liv. xxiii. 24. 12.

3. **irrupisset**: 'Cicero in the speeches frequently uses *irrumpere* with *in* and the accusative, never *ruere*' [Nohl]. In spite, however, of this remark, Nohl in both editions retains the variant *ruisset* on the authority of TE!

4. **curasset**: I read the syncopated form with H: cf. § 8 *n.* *Curo* in the sense of 'order,' 'get done,' 'cause' is construed (i) with the gerundive as here, cf. Verr. v. 177, 185, 186, (ii) with *ut* and the subj., e.g. Rosc. Am. 33, or (iii) with the simple subjunctive. The last, e.g. *curabo sentiat* [Phaedr.], is a conversational idiom, and not found in the speeches.

7. **quem . . . occidere**: Quintil. v. 14. 3 quotes the passage as an example of *enthymemata multiplicata*. The particular form of the *ἐνθύμημα*, or rhetorical syllogism, here adopted is that *ex contrariis*, which was considered the enthymema proper in the rhetorical schools. Cf. Cic. Top. 55, Quintil. viii. 5. 9. For the faulty quotation of Quintilian, who is followed by later writers, cf. § 9 *n.*

11. **honoris amplissimi**: cf. Sull. 49 cum *honos* agebatur familiae vestrae *amplissimus*, hoc est *consulatus* parentis.

subesset: the use of the verb in a temporal sense is rare, cf. Caes. B. G. iii. 27.

12. **scio enim**: for the thought cf. Att. ii. 24. 1 non ignoro, quam sit amor omnis sollicitus atque anxius. Possibly *consulatus* is an addition. It restricts the sense, which is improved, if the reflection is upon ambition *in general*. *Cupiditas* is Cicero's regular word for 'ambition,' e.g. Sull. 91, and does not require explanation.

15. **rumorem levem, fictam fabulam**: for the sense cf. ad Herenn. ii. 12, *loci communes* on rumour, 'aut *fictam fabulam* in adversarios adferemus . . . aut *verum*

omnium atque oculos intuemur. Nihil est enim tam molle, tam tenerum, tam aut fragile aut flexibile quam voluntas erga nos sensusque civium, qui non modo improbitati irascuntur candidatorum, sed etiam in recte factis saepe fastidiunt. Hunc 43 igitur diem campi speratum atque exoptatum sibi proponens Milo cruentis manibus, scelus et facinus prae se ferens et confitens, ad illa augusta centuriarum auspicia veniebat? Quam hoc non credibile est in hoc, quam idem in Clodio non dubitandum, qui se *ipse* interfecto Milone regnaturum putaret! Quid? quod caput est, audaciae, iudices, quis ignorat maximam illecebram esse peccandi impunitatis spem? In utro igitur haec

1. est enim HE: *enim est* Tδ. 5. igitur diem HEχ: *diem igitur* Tσs. 8. est H: *om.* rell. 9. qui se *ipse*, Stangl. [Tull. p. 8]: *qui se ille* H; *quin se ille* TE; *qui se* δ; *cum se ille* Halm. 10. caput est, audaciae, Wex: *caput est aud.* HE, Severianus, p. 361; *caput aud. est* Tδ; voc. *aud.* del. Ferrarius, Garatoni, *om.* unus Ox. (ω).

rumorem,' de Petit. Cons. 50 *rumori* . . . maxime serviendum, ib. 54 vitare *fabulam*. The words are similarly joined Fam. viii. 1. 1 senatus consulta, edicta, *fabulae*, *rumores*. The emendation which I propose supposes a dislocation of *levem* in our MSS.: cf. p. xliii. In the archetype of H this must have been omitted, and added in the margin. In H it has been recalled to the text, but has expelled *fabulam*: in TE *fabulam* reappears, but is in the wrong place. That *falsam* is a gloss upon *fictam* appears from the various order in TE, as was seen by Baiter. I prefer to put *fictam* before *fabulam*, not after it with Modius, since this appears the usual order § 8 *n.*: [Rep. ii. 19 antiquitas recepit *fabulas fictas* etiam non numquam incondite, is different, since *fictas* is there a partic.] Garatoni, who rightly took *levem* with *rumorem*, proposed to punctuate *rumorem*, *fictam fabulam*, *levem*, which would be hardly intelligible in delivery, while Wirz more boldly punctuates *rumorem*, *fabulam fictam falsam*, *levem*, which is even more difficult. Recent editors following E give no adjective to *rumor* and three to *fabula*, which is very unsymmetrical.

2. **tenerum**: 'impressionable,' the metaphor appears to be one from moulding wax. Cf. de Orat. iii. 176 tam *tenerum* . . . tam *flexibile* . . . *sicut mollissimam ceram* ad nostrum arbitrium formamus et fingimus: Orat. 52 oratio *mollis* et *tenera* et ita *flexibilis*, ut sequatur quocumque torqueas, Brut. 274, &c. So Juv. vii. 237 exigite ut mores *teneros* ceu *pollice* ducat.

fragile: ἅπαξ λεγ. in the speeches.

4. **fastidiunt**: 'are critical': cf. *fastidiose probare* Att. ii. 1. 1 = to 'revise critically.' The only other reference for the verb in the speeches is Pis. 68. For the topic cf. Mur. 21.

7. **augusta cent.**: the auspices of the centuriata were *maiora*: those of the tributa *minora*: Aul. Gell. xiii. 15. 4.

8. **est**: Kühnast, p. 276, says that the ellipse of *est* or *sunt*, where the word cannot be readily supplied from the context, is rare in Cicero, the present passage and § 16—according to the vulgate—being the only cases in this speech. This observation is strongly in favour of *est* as found in H *sol.*

9. **qui se ipse**: I accept the simple correction of Stangl, cf. § 56. The confusion is frequent, e.g. § 19 ipso: *illo* T § 32 ipse: *ille* δ § 53 ipsa: *illa* s. § 58 ipsi: *illi* T. The corruption is, as usual patent in H: in TE it is obscured by the alteration to *quin*, which was thought necessary after *dubito*, while in the dett. it is concealed by the omission of *ille*, the difficult word.

10. **quod caput est**: 'the chief point,' cf. § 53, Phil. xii. 24, Fam. iii. 7. 4, xiii. 19. 3, Div. ii. 117, Fin. iv. 23, &c.

audaciae: i. e. *audacibus* [Wex], 'the chief temptation to criminals is the hope of impunity.' The old interpretation connected *caput* with *audaciae*, in the sense of *caput ac fons*, but this is contrary to the idiomatical use of *quod caput est*. Suspicion has been cast upon the word, but the quotation of Severianus shows that it formed part of the text in the time of Hadrian.

fuit? in Milone, qui etiam nunc reus est facti aut praeclari aut certe necessarii, an in Clodio, qui ita iudicia poenamque contempserat, ut eum nihil delectaret, quod aut per naturam fas esset aut per leges liceret?

44 Sed quid ego argumentor? quid plura disputo? Te, Q. Petili, appello, optimum et fortissimum civem; te, M. Cato, testor, quos mihi divina quaedam sors dedit iudices. Vos ex M. Favonio audistis, Clodium sibi dixisse, et audistis vivo Clodio, periturum Milonem triduo. Post diem tertium gesta res est quam dixerat. Cum ille non dubitarit aperire quid cogitaret, 17 vos potestis dubitare quid fecerit? Quem ad modum igitur eum 45 dies non fefellit? Dixi equidem modo: dictatoris Lanuvini stata sacrificia nosse negoti nihil erat. Vidit necesse esse Miloni proficisci Lanuvium illo ipso quo est profectus die, itaque anteuertit. At quo die? quo, ut ante dixi, fuit insanissima contio, ab ipsius mercennario tribuno pl. concitata; quem diem ille, quam contionem, quos clamores, nisi ad cogitatum facinus ap-

5. Petili *om.* H. 9. triduo *om.* Severianus, p. 362. 10. ille *om.* Isidorus Origg. ii. 30. 9. dubitarit, Severianus, edd.: *dubitaverit* Mart. Capella, p. 468, Isid.; *dubitaret* HTEδ. cogitaret Hsχ: *cogitarit* TE. Mart. Cap.; variant Severiani codd. 11. dubitare: *cogitare* H. 13. vidit *om.* H. 14. *ante venit* E.

1. **reus est**: a sophistical argument. Milo may have hoped for impunity, although he failed to obtain it (cf. de Inv. ii. 23).

5. **Q. Petili**: not otherwise known. M. Petilius an *eques* in Sicily is mentioned, Verr. ii. 71.

7. **divina sors**: i. e. they were among the 81 jurors left after the *sortitio* on the morning of the trial. Cato was also one of the 51 who finally voted.

8. **vivo Clodio**: so that he could have denied it, if it was not true.

10. **quam**: to be taken with *post*, not with *dixerat* [Halm].

dubitarit . . . cogitaret: there is considerable variety in the readings here. As our MSS. are hardly reliable in such matters, § 8 *n.*, I follow what appears to be the usual idiom.

11. **dubitare**: the variant *cogitare* is very plausible, 'you can imagine what he did,' cf. Leg. Agr. ii. 64 vos tamen id potestis cum animis vestris *cogitare*, Verr. iii. 223 id suspicari et *cogitare* possitis. It may, however, be a mere slip, and *dubitare* is supported by the quotation of Severianus Julius Victor quotes loosely *vos dubitatis pronuntiare*. In either case, the verb when repeated is used in a slightly different sense, cf. § 10 *n.* Cicero joins *dubitare* and *cogitare* as synonyms, § 53.

12. **stata**: i. e. 'quae certis diebus fieri solent' [Festus]. The word is generally used in a religious sense, e. g. Tusc. D. i. 113, or in legal formulae, e. g. Off. i. 37 *status* dies cum hoste, a quotation from the XII Tables. The variant *statutus* is frequently found in MSS. with it.

15. **quo die**: this should naturally refer to *quo die* in the previous line, in which case it should go with *profectus est*, and the day would be the 18th. It might, however, be taken with *antevertit*, and refer to the 17th. Asconius, who had the *Acta* before him, says that the *contio* was on the 18th, and that the speech of Pompeius Rufus is here alluded to. The ambiguity is doubtless intentional on the part of Cicero.

insanissima: § 3 *n.*

properaret, numquam reliquisset. Ergo ille ne causa quidem itineris, etiam causa manendi, Miloni manendi nulla facultas, exeundi non solum causa sed etiam necessitas [fuit]. Quid, si, ut ille scivit Milonem fore eo die in via, sic Clodium Milo ne suspicari quidem potuit? Primum quaero, quî potuerit, quod 46 vos idem in Clodio quaerere non potestis. Ut enim neminem alium nisi T. Patinam, familiarissimum suum, rogasset, scire potuit illo ipso die Lanuvii a dictatore Milone prodi flaminem necesse esse; sed erant permulti alii, ex quibus id facillime scire posset. Milo de Clodi reditu unde quaesivit? Quaesierit (videte, quid vobis largiar); servum etiam, ut Q. Arrius, amicus meus, dixit, corruperit. Legite testimonia testium vestrorum! Dixit C. Causinius Schola Interamnanus, familiarissimus et idem

2. manendi *ante* nulla *om.* Tσ. facultas *del.* Bake. 3. non solum causa H: *non causa solum*, rell. [fuit], *seclusi.* 5. quidem *om.* H. qui potuerit H: *quid scire potuerit* TE; *qui scire pot.* δ; *qui id scire pot.* Halm. 9. permulti HEσ: *multi* Tsχ. 10. posset: *homines scilicet.* add. H.: *omnes scilicet Lanuvini* TEδ; additamentum del. Lambinus. quaesierit H: *sane* add. rell. 11. Q. *om.* Hsχ. amicus meus H: *meus amicus* rell. 13. C. Causinius TEδ, Baiter in Add.: *C. Ausinius* H, Ascon. cod. S; *C. Cassinius* Ascon. codd. MP. Interamnanus HTE: *inter amianos* Ascon. cod. S; *Interamnis* δ, Ascon. cod. P; *Interamnas* Graevius.

1. **reliquisset**: if the meeting was on the 18th, this means 'failed to attend,' if on the 17th, 'went away from.' The latter is the meaning which would naturally suggest itself to the hearer: cf. § 27 *n.* I have not found any satisfactory parallel for *relinquere* in the former sense, i. e. = *non obire*.

ne causa quidem: this is disproved by Ascon. 32. 36.

3. **necessitas**: Wüst points out [p. 66] that *nĕcĕssĭtās fŭit* is a very unusual *clausula*. I bracket *fuit* since this makes the rhythm more normal, and the word can be easily supplied.

5. **qui potuerit**: i. e. *suspicari*. The addition *id scire* appears to be taken from ll. 1 and 7.

7. **T. Patinam**: apparently a native of Lanuvium.

8. **illo ipso die**: the day of the murder. The statement is untrue, since the flamen was to be appointed on the 19th, Ascon. 32. Cf. § 27 *n.*

Lanuvii: 'the locative of names in *-ium* ended in *-ii* even in times when there was no genitive in *-ii*; Ennius has *Brundisii* (in hexam.)' [Reid].

10. **quaesivit? Quaesierit**: cf. § 57 *occideritne? occidit.* I omit *sane* with H as adding nothing to the sense.

11. **amicus meus**: this may be ironical, as Cael. 27 P. Clodius, *amicus meus*, or possibly a tribute of respect. Cf. Quintil. v. 7. 27 (testes) . . . probos et verecundos non aspere incessere profuit. The order *amicus meus* is found 13 times in the speeches, and *meus amicus* 3 times.

13. **C. Causinius Schola**: cf. Ascon. 33. 41. I previously pointed out [Anecd. p. xli] that the addition previously printed, sc. *cuius . . . Romae*, is a scholium. It is omitted in H, and in the lemma of Asconius, while in his scholium Asconius gives the information which it contains. As usual his note is the result of some research on his part, since in other places where the *alibi* of Clodius is referred to [e. g. Att. ii. 1. 5, Dom. 80, Schol. Bob. in Clod. et Cur. *argum.*, Quintil. iv. 2. 88], the name of Causinius is not mentioned. I would add that the plupf *fuerat* savours of the commentator, and that the juxtaposition of *Clodi, P. Clodium* is Ciceronian; cf. infr. *P. Clodi, C. Clodius*. The excision is adopted by Poynton, and Nohl, ed. 2. The latter remarks that it was not to the interest of Cicero to impeach the credit of Causinius at this juncture.

comes Clodi, P. Clodium illo die in Albano mansurum fuisse,
18 sed subito ei esse nuntiatum Cyrum architectum esse mortuum,
47 itaque repente Romam constituisse proficisci; dixit hoc item comes P. Clodi, C. Clodius. Videte, iudices, quantae res his testimoniis sint confectae. Primum certe liberatur Milo non eo consilio profectus esse, ut insidiaretur in via Clodio; quippe, si ille obvius ei futurus omnino non erat. Deinde (non enim video, cur non meum quoque agam negotium) scitis, iudices, fuisse qui in hac rogatione suadenda diceret, Milonis manu caedem esse factam, consilio vero maioris alicuius. Me videlicet latronem ac sicarium abiecti homines et perditi describebant. Iacent suis testibus, respiravi, liberatus sum; non vereor ne, quod ne suspicari quidem potuerim, videar id cogitasse.

1. Clodi: *cuius iam pridem testimonio Clodius eadem hora Interamnae* (-a TEσs) *fuerat et Romae* add. TEδ., delevi. 2. *esse ei* E. 3. item comes H: *comes item* rell. 5. *sunt σs*, Garat. 6. *profectum* m. 2 in E: *non eo consilio profectus est* Hedicke. 8. quoque *om.* T. 9. diceret H, Ascon. Schol., Rau 1. 194: *dicerent* rell. 11. ac: *et* Ascon. et: *ac* H. 12. testibus: *hi* (*hii* H) *qui Clodium negant eo die Romam, nisi de Cyro audisset, fuisse rediturum* add. codd, *hi* del. Garatoni, *iis qui* Richter, *ipsis qui* Eberhard, *qui quidem* Müll.: 'fort. *convicti qui*' Nohl: ego totum colon delevi. *liberatus sum, respiravi*, Quintil. ix. 2. 26. 13. ne *ante* suspic. *om.* H.

2. **Cyrum**: a Greek architect employed both by M. and Q. Cicero. A freedman and associate of his, Chrysippus, is mentioned Fam. vii. 14. 1. Other Greek architects of the time were Diphilus (Q. F. iii. 1. 1), and Corumbus (Att. xiv. 3. 1).

5. **non profectus esse**: a strange use of the infin. after *liberatur*. Similar constructions are found with *defendi*, e. g. Vatin. 5, de Inv. ii. 98, and *excusari* Phil. v. 14. Wirz suggests that Cicero was thinking of the Greek idiom, e. g. Thuc. i. 95 ἀπολύεται μὴ ἀδικεῖν.

6. **quippe**: = quidni: cf. Rosc. Am. 52 convivia non inibat. *Quippe*, qui ne in oppidum quidem nisi perraro venisset.

9. **diceret**: Ascon. ad loc. says that Pompeius Rufus and Sallust are alluded to. Cicero uses the singular, since he is principally thinking of *one* of them, probably Pompeius, just as in § 12 he speaks of *one* 'ambustus tribunus,'—though Ascon. ad loc. says Plancus and Pompeius were equally implicated—and in § 45 of *one* venal tribune,—though Sallust and Pompeius were both concerned. The alteration to the plur. in this passage was very simple, so the survival of the sing. in Ascon., the Scholiast, and H should establish the reading.

10. **maioris alicuius**: it is doubtful whether Milo would have altogether relished this description of his relation to Cicero. A similar charge, sc. of prompting Milo, had been brought against Cicero earlier: Att. iv. 3. 5 *meo consilio* omnia fieri illi querebantur. Cicero must have forgotten this passage when in reply to Antony, who had revived the charge, he says [Phil. ii. 22], quod ergo, cum res agebatur, *nemo in me dixit*, id tot annis post tu es inventus qui diceres? The enemies of Cicero may well have urged, that as he was with Clodius on the morning of the 17th, he might have informed Milo of his enemy's movements. Clodius would probably talk freely upon the subject.

11. **describebant**: 'hinted at,' without naming. Cf. Q. F. ii. 3. 3 respondit ei vehementer Pompeius, Crassumque *descripsit*, Fam. i. 9. 20, Sull. 82.

12. **iacent suis testibus**: for the use of *iacent* as a passive cf. Aen. i. 99 telo *iacet* Hector. The witnesses are treated as an instrument. Prof. Tyrrell, iii. p. cviii, epigrammatically remarks that 'Cicero, like a genuine lawyer, does not treat a witness as a human being.' The words *ii qui . . . rediturum* I look upon as a crude

Nunc persequar cetera; nam occurrit illud: 'Igitur ne Clo- 48
dius quidem de insidiis cogitavit, quoniam fuit in Albano mansurus.' Si quidem exiturus ad caedem e villa non fuisset. Video enim illum, qui dicatur de Cyri morte nuntiasse, non id nuntiasse, sed Milonem appropinquare. Nam quid de Cyro nuntiaret, quem Clodius Roma proficiscens reliquerat morientem? Testamentum simul obsignavi, una fui; testamentum autem palam fecerat et illum heredem et me scripserat. Quem pridie hora tertia animam efflantem reliquisset, eum mortuum postridie hora decima denique ei nuntiabatur? Age, sit ita factum; quae 19
causa fuit, cur Romam properaret, cur in noctem se coniceret? 49
quid adferebat festinationis quod heres erat? Primum nihil erat,

3. *ex* H. 4. dicatur TE: *indicatur* H; *dicitur* δ. non id nuntiasse *om.* Hδ. 5. *appropinquasse* T. 7. testamentum simul obsignavi, una fui, scripsi: *test. Cyri simul obsign. cum Clodio una fui* H, *una fui test. Cyri simul obsign. cum Clodio* E, eodem ordine sed om. voc. *Cyri* Tδ. edd. recc. 11. in noctem: *innocentem* TE. 12. quid: *ecquid* Wex. *voc.* causa *ante* festinationis *add.* H: *causam festinationis* Ernesti. nihil erat H, Schol. Bob.: *erat nihil* rell.

note upon *testibus*, taken from the margin. As they stand, they cannot be sound, since they refer to the *abiecti homines*, and not to the *testes*, who really make the statement. The editors endeavour to embody the addition in the text by various emendations.

3. **exiturus . . . fuisset**: the periphrastic form of the plupf. subj. is very rare, cf. RH *n.* 461 a. Reid quotes Div. ii. 21 *eventurum fuisset*. Here it corresponds to the previous periphrasis *mansurus fuit*.

e villa: the same form of the preposition occurs before *villa* in § 54, Att. xii. 1. 1, xiii. 16. 1. The lists collected by Neue, ii. 875 sqq. show that Latin writers frequently used either *e* or *ex* before the same word. Of course our MSS. are not reliable guides in such matters.

4. **video**: Quintil. x. 1. 14 remarks, 'nec sicut de intellectu animi recte dixerim *video*, ita de visu oculorum *intellego*.'

7. **simul . . . una**: cf. *una* locum, *simul* spatium designat, Charisius [Keil, i. 222]. That there is some corruption in the text here is clear from the variants. Probably *Cyri* and *cum Clodio* are both glosses: the former is generally excluded, but the latter retained. The variety in the collocation of *una fui* may indicate further corruption. The repetition of *test.* appears to be an imitation of legal phraseology: cf. ad Herenn. i. 23 *testamentum* ipso praesente conscribunt, *testes* recte adfuerunt . . . qui heredes erant *testamento*. Under later law the heirs could not act as witnesses, Dig. 28. 1. 20. This was not the case at this period, cf. Att. vii. 2. 3 *iii Ciceronum signis obsignatum*, i. e. M., Q., and young Q Cicero, the will being one under which Marcus benefited.

8. **palam**: 'quid est *palam*? Non utique in publicum, sed ut exaudiri possit, exaudiri autem non ab omnibus, sed a testibus' [Dig. 28. 1. 21].

illum . . . et me: Cicero and Clodius were both fond of building, and had probably patronized Cyrus, who shows his gratitude by making this strangely assorted pair his heirs. In spite of their feud they were not infrequently brought together: thus in 54 B.C. they both defended Scaurus [Ascon. *in Scaurian.* 20]. Cf. Att. ii. 1. 5.

9. **animam efflantem**: the heirs went as soon as the will was made. Clodius might be expected to stay in Rome for his *contio* [§ 45], but not to await the last moments of Cyrus.

11. **fuit**: the verb can hardly be omitted without harshness, cf. § 43 *n.*, Kühnast, p. 277.

in noctem: cf. § 29 *n.*, where the way is prepared for this misrepresentation. The whole of this argument, based upon the near approach of night, is purely sophistical.

12. **quid adfer.**: the emendation of Wex, *ec*quid, is very tempting, since *ec-* might easily drop out after conicer*et*. Since,

cur properato opus esset; deinde, si quid esset, quid tandem erat, quod ea nocte consequi posset, amitteret autem, si postridie mane Romam venisset? Atqui ut illi nocturnus ad urbem adventus vitandus potius quam expetendus fuit, sic Miloni, cum insidiator esset, si illum ad urbem noctu accessurum sciebat, subsidendum atque exspectandum fuit. Noctu occidisset. Nemo ei neganti non credidisset. Insidioso et pleno latronum in loco occidisset. Nemo ei neganti non credidisset, quem esse omnes salvum etiam confitentem volunt. Sustinuisset crimen primum ipse ille latronum occultator et receptor locus, tum neque muta

3. mane Romam Hδ: *Romam mane* TE. Atqui, Ascon.: *atque* rell. 5. noctu Hs: *nocte* TEσ. 6. Noctu . . . occidisset H: *noctu occidisset, insidioso et pleno latronum in loco occidisset* h in mg., s in textu; totum colon *om.* TEσχ. 9. crimen H, Nohl[2]: *hoc crimen* rell. 10. receptor *ex* repertor *corr.* H. locus *om.* T. tum HTE. *dum* vel *denique* δ; *cum* Ernesti.

however, it supposes a *proprius error* common to both families of MSS., while *quid* is perfectly good Latin, I hesitate to receive it. The word *causa* found in H is probably due to an accidental repetition of *causa* from the previous line.

1. **properato**: this is the only example of this construction in the speeches. Krebs-Allg. remark that 'it is common in old poets: in good prose it is confined to certain recognized formulae, e.g. *opus est dictu* is not found in Cicero.' Aul. Gell. xvi. 14 quotes from a speech of Cato, 'qui unum quid mature transigit, is *properat*, qui multa simul incipit neque perficit, is *festinat*.' The quotation seems to have been a current one, as it is also given by the Schol. Bob. on this passage. The words are used as synonyms Phil. ix. 6.

si quid esset: Clodius may have been in a hurry to make his *cretio hereditatis*, to protect his interests from his hostile *coheres*.

2. **postridie mane**: so five times in the speeches. *Mane postridie* occurs Phil. ix. 9. Other phrases are *postero die mane*, and *postridie eius diei mane*.

3. **atqui**: I read with Asconius: the confusion with *atque* is constant. Reid on Ac. ii 21 says that '*atqui* is never a mere particle of transition, but always introduces a distinct stage in the development of an argument.' For its idiomatical use in introducing the minor premiss of a syllogism see Nat. D. ii. 16 and Madv. on Fin. i. 59.

5. **noctu**: an archaic form for *nocte*, which occurs twelve times in the speeches. Cf. ad Herenn. ii. 7 *noctu* an interdiu, where the use of this topic, sc. *tempus*, is discussed. Reid says that *noctu* = 'by night' in Cic., while *nocte* is used with an epithet after a preposition, or in the phrase *die et nocte*.

6. **noctu . . . occidisset**: this passage is omitted in TE, in the archetype of which a line must have dropped out, as was seen by Richter, Jahrb. 1862, p. 632 ['es scheint eine Zeile in der gemeinsamen Quelle von TE u. a. übersprungen zu sein.'] It appears first as a marginal addition, and then is incorporated in the text of fifteenth-century Italian MSS. For the source of these additions in the late dett. see p. xxxv. Halm, Jahrb. 1855, p. 110, objects (i) 'that it is only found in late MSS.,' an objection which cannot now be urged, as it is in H, (ii) 'that *occidisset* without an object is unusual.' For this I would refer to § 57 *occideritne? occidit*, sc. *eum*, (iii) 'that *-oso* et pleno latr. in loco is not a Ciceronian rhythm.' This I deny. Cicero is very fond of such *homoioteleuta*, (iv) 'that it adds nothing to the sense.' This is not the case: *noctu* and *latronum in loco* present the points afterwards taken up by *latronum . . . locus*, and *caeca nox*, the chiastic arrangement being intentional.

9. **salvum**: § 5 *n*.

10. **occultator**: no other instance of this word is quoted: for such coinages by Cic. cf. § 35 *n*.

receptor: ἅπαξ λεγ. in Cicero, who, however, has *receptrix* Verr. iv. 17, v. 160. In the jurists it = 'receiver of stolen goods.' *Repertor*, the reading originally given in H, may be right: for the word

solitudo indicasset neque caeca nox ostendisset Milonem; deinde multi ab illo violati, spoliati, bonis expulsi, multi haec etiam timentes in suspicionem caderent, tota denique rea citaretur Etruria.

Atque illo die certe Aricia rediens devertit Clodius ad se in 51
Albanum. Quod ut sciret Milo, illum Ariciae fuisse, suspicari tamen debuit eum, etiam si Romam illo die reverti vellet, ad villam suam, quae viam tangeret, deversurum. Cur nec ante occurrit, ne ille in villa resideret, nec eo in loco subsedit, quo ille noctu venturus esset?

Video adhuc constare, iudices, omnia: Miloni etiam utile 52

1. deinde Hs; *ubi* add Tσχ; *ibi* E. 5. Atque: *atqui* A. Eberhard. ad se in Albanum H: *ad Albanum* rell. 6. ut: *nisi* δ. 8. nec ante H: *neque ante* rell. 9. nec eo: *neque eo* H. 11. adhuc constare HTδ: *constare adhuc* E.

cf. Tac. Ann. ii. 30, iv. 11, &c. In either case the *locus* is personified, just as the solitude is 'speechless,' and the night 'blind,' cf. §§ 20, 85. We learn from Ascon. ad loc. and Att. vii. 9. 1 that highwaymen infested this part of the Via Appia. It is, however, hardly likely that they would have ventured to molest the armed retinue of Clodius.

tum: 'secondly,' followed by *deinde*, 'thirdly.' Nohl compares Sest. 141. The usual sequence is *primum . . . deinde . . . tum*, e. g. N. D. ii. 3.

1. **deinde**: *ibi* [E] and *ubi* [T] are various forms of an addition in their archetype. *Ibi* ought to mean 'there,' i. e. in the *latronum occultator . . . locus*, which would unduly narrow the meaning. The victims of Clodius were scattered over all Etruria. Other interpretations are (i) that *ibi* stands for *si ibi occisus esset* [Halm], which hardly seems possible, (ii) that *deinde ibi* go together in a temporal sense, as is suggested by a very able critic of my Anecd. [Athenaeum, Jan. 7, 1893]. This use of *ibi* is chiefly ante-classical and poetical, though frequent in Livy. In Cic. we find *ibi tum* Div. in Caecil. 27, Verr. iii. 139, Quinct. 16. Dr. Reid here suggests *deinde ibidem*. I would submit that the MSS. evidence is here against *ibi*. There is a precisely similar interpolation, Imp. Pomp. 33, ex Miseno autem eius ipsius liberos, qui cum praedonibus antea *ibi* bellum gesserat, where I omit *ibi* with H [Anecd. p. lx]. Antonius, who is referred to, fought the pirates in Cilician waters, not off Misenum.

3. **rea citaretur**: cf. Sest. 35.

5. **atque**: this introduces a final argument. The sense is, 'granting for the sake of argument that Milo *did* know Clodius to have been at Aricia, he ought to have guessed that he would stop at his villa, even if he meant to return to Rome that day. If so, his proper course was either (i) to stop him from getting to his villa, or (ii) to wait for him outside of Rome, after he had left his villa. He did neither, but met him on his own ground. The conclusion is that he did not waylay him at all.'

ad se in Albanum: cf. Att. iv. 9. 1 venit *ad me in Cumanum a se*, Rep. iii. 40 cum venerat *ad se in Sabinos*, Orat. 110 cum *ad te in Tusculanum* venissem, de Orat. ii. 13 *ad me in Tusculanum*, Fat. frag. 5 cum esset *apud se ad Lavernium* Scipio, Q. F. ii. 5 (6). 3 *in hortos ad Pompeium* lectica latus sum. As the addition *ad se* is so idiomatic, and so likely to have been obelised by a corrector, it is surprising that no editor since Garatoni has defended this reading.

6. **quod ut . . . fuisse**: see § 15 *n.*

7. **tamen**: the word seems out of place: logically it should go with *deversurum*, i. e. 'in spite of his return, *still* he would halt,' but grammatically it goes with *suspicari*.

8. **nec ante . . . nec eo**: cf. § 29 *n.*

11. **video . . . videamus** [§ 53]: for this form of transition cf. Rosc. Am. 92, and Landgraf's note: and for the *résumé* by *frequentatio*, p. liv.

fuisse Clodium vivere, illi ad ea, quae concupierat, optatissimum interitum Milonis; odium fuisse illius in hunc acerbissimum, nullum huius in illum; consuetudinem illius perpetuam in vi inferenda, huius tantum in repellenda; mortem ab illo Miloni denuntiatam et praedicatam palam, nihil umquam auditum ex Milone; profectionis huius diem illi notum, reditum illius huic ignotum fuisse; huius iter necessarium, illius etiam potius alienum; hunc prae se tulisse se illo die Roma exiturum, illum eo die se dissimulasse rediturum; hunc nullius rei mutasse consilium, illum causam mutandi consili finxisse; huic si insidiaretur, noctem prope urbem exspectandam, illi, etiam si hunc non timeret, tamen accessum ad urbem nocturnum fuisse metuendum.

20 **53** Videamus nunc id, quod caput est, locus ad insidias ille ipse, ubi congressi sunt, utri tandem fuerit aptior. Id vero, iudices, etiam dubitandum et diutius cogitandum est? Ante fundum Clodi, quo in fundo propter insanas illas substructiones

1. *cupierat* T. 4. *ferenda* H. Miloni denunt. H: *denunt. Mil.* rell. 5. praedicatam HTEδ, Bait.: *praedictam* unus Ox. [χ^3], Gruter. 6. reditum Hδ: *reditus* TE 8. tulisse se H: *om.* se *rell.* Roma χh: *Romam* HTEσ. 10. finxisse: ex *fuisse* corr. E.

5. **praedicatam**: I retain this the MSS. reading, which has been surrendered by nearly all modern editors, in favour of the conjecture *praedictam*, generally ascribed to Gruter, though it also occurs in the margin of a fifteenth-century MS. *Praedicare*, as Mr. Purser points out to me, means 'to proclaim as by a crier.' Cf. Verr. iii. 40 si *palam* praeco iussu tuo *praedicasset*, de Opt. Gen. Or. 19 scitum fecit, ut ita *praedicaretur*, EUM DONARI VIRTUTIS ERGO, Att. ix. 9. 2 *praedicat palam* et militibus ostendit, Off. iii. 55, &c. The approaching murder of Milo was as notorious as if it had been cried about the streets.

nihil umquam: a bold statement, which must have amused Milo. Cf. Att. iv. 3. 5 and p. xviii.

6. **reditum**: Nohl [ed. 2, krit. Anh.] attributes the accusative to a desire on the part of the copyist of H to get rid of *reditus*, 'which was not recognized as a genitive.' The genitive, however, also occurs in §§ 39, 61, so it can hardly have been unfamiliar. The accusative is preferable as conveying a more sweeping assertion: 'he knew nothing of his return,' rather than 'of the day of his return.'

8. **tulisse se**: the omission of *se* would be unusual, especially as it is inserted in the corresponding clause.

9. **eo die**: so § 28 bis = *illo die* supr.

12. **timeret . . . metu.**: for the synonyms expressive of fear cf. Tusc. D. iv. 19.

16. **etiam** = diutius. Dr. Reid remarks on § 3 that Cicero only uses *etiam* in a temporal sense if a negative precedes. This is certainly the common idiom, e. g. *nondum etiam*, Rosc. Am. 23, *nihildum etiam*, Cat. i. 10. In this case also the answer to the question put would be in the negative. The rule, however, does not embrace all cases; cf. Verr. iii. 56 cum iste *etiam* cubaret, Cat. i. 1. quamdiu *etiam* furor iste tuus nos eludet?

cogitandum = dubitandum, cf. § 44 *n.*

17. **fundum**: the word was originally used of the ground without the buildings, Top. 23, but afterwards came to include these; cf. Dig. 50. 16. 211 ager cum aedificio *fundus* vocatur. The repetition of the subst. in the rel. clause is not uncommon in Cic., e. g. Imp. Pomp. 35, Clu. 148, while it is very frequent in Caesar, e. g. B. G. i. 6. It here draws attention to the scene of the murder, which was strongly against the theory of the prose-

facile hominum mille versabatur valentium, edito adversarii atque excelso loco, superiorem se fore putabat Milo et ob eam rem eum locum ad pugnam potissimum elegerat? an in eo loco est potius exspectatus ab eo, qui ipsius loci spe facere impetum cogitarat? Res loquitur ipsa, iudices, quae semper valet plurimum. Si haec non gesta audiretis, sed picta videretis, 54 tamen appareret, uter esset insidiator, uter nihil mali cogitaret, cum alter veheretur in raeda, paenulatus, una sederet uxor;— quid horum non impeditissimum? vestitus an vehiculum an comes? quid minus promptum ad pugnam, cum paenula irretitus, raeda impeditus, uxore paene constrictus esset?—Videte nunc illum, primum egredientem e villa subito; cur? vesperi; quid necesse est? tarde; qui convenit, praesertim id temporis? 'Devertit in villam Pompei.' Pompeium ut videret? sciebat in Alsiensi esse; 'villam ut perspiceret?' miliens in ea fuerat.

1. versabatur, Aul. Gell. i. 16. 5, Macrobius, i. 5. 5 : *versabantur* HTEs. edito *om.* δ. 2. putabat Hδ : *putarat* TE. 3. *ad pugnandum* E. *legerat* T. 4. *expectandus* T. spe : *ope* Mayhoff. 6. *gesta non* T. 7. mali cogit. H : *cogit. mali* rell. 12. *vespere* H.

cution : so infr. *locus* is repeated four times.

insanas substructiones: cf. § 85 *insanis molibus*, Plin. N. H. xxxvi. 104 senes . . . *substructiones insanas* Capitoli mirabantur. Similar words are often used of expensive building operations, e. g. ad Herenn. iv. 63, the ostentatious man says, in Tusculano . . . coepi *insanire* et in isdem fundamentis *aedificare*, Att. ix. 9. 4. eius *dementias* cave contemnas. So we talk of a man's 'Folly,' or of a bridge as 'Folly Bridge.' Cf. Mayor on Juv. xiv. 86. Quintil. viii. 6. 41 quotes the phrase as an example of an epithet transferred from a person to a thing, coupling with it *cupiditas effrenata* Cat. i. 25, cf. § 76 *infr.*

1. **versabatur**: Krebs-Allg. say that when *mille* is used as a subst. and followed by a genitive, the singular of the verb is the commoner construction. Dr. Reid would narrow the use to cases where *mille* goes with some word expressing money or space, e. g. Att. iv. 16. 8, Phil. vi. 15. The literature upon the subject is collected in RH *n.* 335. For the value of the statement of Gellius see Landgraf on Rosc. Am. 11, and for the MSS. reading p. xlv.

adversarii . . . loco: i. e. the spot favouring, or selected by, his foe. Cf. Caes. B. C. i. 61. 3 *suis* locis bellum in hiemem ducere cogitabant [Purser]. I take the abl. to be one of place, in apposition to *in fundo*, not, as Colson suggests, an abl. of comparison, or an abl. abs.

2. **superiorem**: the word is chosen on account of the preceding *edito loco* [= *de loco superiore*, § 29].

putabat: the imperfect denotes that it was a 'fixed idea' with him. It was altered to the plupf. on account of the *elegerat* in the following line.

3. **pugnam**: the agreement of T with H shows that *pugnandum* in E is an eccentricity of that MS.

6. **picta videretis**: cf. Hor. Art. Poet. 180–182. Mart. Capella, p. 478, quotes the passage as an example of διατύπωσις or pictorial representation. Cf. Landgraf on Rosc. Am. 98.

11. **uxore . . . constrictus**: for the abl. cf. §§ 26, 47.

12. **vesperi**: this form is more frequent in Cic. than *vespere*. Neue gives a list of passages for both.

14. **Pompei**: he was on good terms with him now, but in view of their standing feud *miliens* must be an exaggeration.

15. **Alsiensi**: a favourite spot for villas, cf. Val. Max. viii. 1. 7, Plin. Ep. vi. 10, Dennis, Etruria, ii. p. 70 sq.

Quid ergo erat? mora et tergiversatio; dum hic veniret, locum relinquere noluit.

21 Age nunc iter expediti latronis cum Milonis impedimentis
55 comparate. Semper ille antea cum uxore, tum sine ea; numquam nisi in raeda, tum in equo; comites Graeculi, quocumque ibat, etiam cum in castra Etrusca properabat; tum nugarum in comitatu nihil. Milo, qui numquam, tum casu pueros symphoniacos uxoris ducebat et ancillarum greges; ille, qui semper secum scorta, semper exoletos, semper lupas duceret, tum neminem, nisi ut virum a viro lectum esse diceres. Cur igitur victus est? quia non semper viator a latrone, non numquam etiam latro a viatore occiditur; quia, quamquam paratus in imparatos
56 Clodius, ipse Clodius tamen mulier inciderat in viros. Nec vero

1. erat *om.* E. mora et tergiversatio H: *morae et tergiversationis* rell.; *morae et tergiversationes* Bait. 5. nisi: *ut* δ. 6. *in comit. nug.* E. 9. *duceret* δ. 13. ipse Clodius H: *om.* rell.; voc. *ipse* ante *Clod.* del. Richt.

1. **quid ergo erat**: '*quid ergo* (or *igitur*) are used in argument: *quid ergo* or (*igitur*) *est* in narration' [Landgr. on Rosc. Am. 36].

mora et tergiversatio: the variant *-ae et -is* is due to *quid*, which was thought to require a genitive. The plural *-ae et -es*, generally read, is explained as = '*repeated* delays, or shuffling.' For the singular *tergiversatio* cf. Att. x. 7. 1, B. Afr. viii. 4: the plural is only quoted from Frontinus, Aquaed. 4. The description of Clodius' loitering here given is of course inconsistent with the story of the prosecutors, *sc.* that he was hurrying on account of the news that Cyrus was dead, § 49.

4. **antea**: 'this form of the adverb is more recent than *ante*. It does not occur in Plautus, and is only once found in Ter. Cicero uses *ante* chiefly in the earlier speeches, and in the Philippics, in which several characteristics of his youthful style reappear' [Landgr. on Rosc. Am. 25].

6. **castra Etrusca**: it is more natural to refer these words to the 'forays' of Clodius in Etruria, cf. §§ 26, 50, 74, 98, than with Ascon. to see in them an allusion to the story that Clodius started to join the Catilinarians at Faesulae. Cf. Schol. Bob. de Aere al. ii. 2.

nugarum: cf. Q. F. i. 2. 4 ego *nugas* maximas omni mea comitate complexus sum.

8. **uxoris**: Fausta would naturally require such companions to solace her *ennui* when going into the country. The accusers doubtless used about them the same scurrilous language as that which Cicero employs concerning the usual retinue of Clodius. Such a description seems to have been a commonplace in Roman rhetoric; cf. the 'realistic' description of C. Antonius' suite by Caelius, Quintil. iv. 2. 123, and the famous passage concerning Antony, Phil. ii. 58. Cicero also describes Verres on the march, Verr. v. 26 sqq. In the case of Antony there does seem to have been some foundation for the charges brought: cf. Att. x. 10. 5.

10. **virum a viro**: a familiar method of forming a picked band, e. g. Liv. x. 38. 12, xxi. 54. 3, Tac. Hist. i. 18. Augustus employed it to reconstitute the senate: Suet. Aug. 35. Vergil uses the phrase in a novel sense, Aen. xi. 632 *legitque virum vir*, of one foe picking out another.

13. **Clodius, ipse Clodius**: the omission of *ipse Clodius* in TE is due to the eye of the writer having strayed from the first to the second Clodius, a fertile source of corruption. The single *Clodius* was suspicious, since, as Richter remarks, 'why should the name, which was not mentioned in the question, be introduced between the antithetical clauses and the answer?' His excision, however, made the sentence somewhat bald.

sic erat umquam non paratus Milo, contra illum ut non satis fere esset paratus. Semper *ipse*, et quantum interesset P. Clodi se interire et quanto illi odio esset et quantum ille auderet, cogitabat. Quam ob rem vitam suam, quam maximis praemiis propositam et paene addictam sciebat, numquam in periculum sine praesidio et sine custodia proiciebat. Adde casus, adde incertos exitus pugnarum Martemque communem, qui saepe spoliantem iam et exsultantem evertit et perculit ab abiecto; adde inscitiam pransi, poti, oscitantis ducis, qui cum a tergo hostem interclusum reliquisset, nihil de eius extremis comitibus cogitavit, in quos incensos ira vitamque domini desperantes cum incidisset, haesit in iis poenis, quas ab eo servi fideles pro domini vita expetiverunt.

Cur igitur eos manu misit? Metuebat scilicet, ne indicaretur, 57 ne dolorem perferre non possent, ne tormentis cogerentur occisum

1. illum: *ipsum* H. 2. ipse: scripsi: *ille* codd. *del.* Garat. 3. interire H; Lambin.: *perire* rell. 6. *se proiciebat* H. 7. pugnarum *om.* Servius [*ad* Aen. xii. 714]. 8. ab abiecto *del.* Novák. 12. iis, Manutius: *his* codd. *om.* Arusianus [vii. 477 K.]

2. **ipse**: the MSS. give *ille*, which cannot possibly be right. *Ille* is throughout the speech appropriated to Clodius, except in § 102, where there can be no ambiguity. Here it would be intolerably harsh, if used of Milo, since before and after it is used three times of Clodius. The mere excision of the word, however, seems to spoil the rhythm. I emend to *ipse*: for the confusion cf. § 43 *n.* It should be noticed that in the previous line H gives *ipsum* for *illum*. Halm's theory that Cicero writing after the event dropped into *ille* does not require refutation: cf. §§ 27, 89. [I observe with pleasure that Dr. Reid has made the same correction.]

interesset . . . interire: the repetition of the preposition in different compounds is a favourite device; cf. § 34 quid Milonis *inter*erat *inter*fici Clodium? Fam. viii. 8. 9 cum *inter*rogaretur, si qui tum *inter*cederent, dixit hoc nihil *inter*esse. Cf. § 78 *n.* That *perire* is a gloss upon the rarer word is obvious.

5. **propositam . . . addictam**: 'this is generally rendered, "put up for sale to the highest bidder, and almost knocked down," i. e. a metaphor from an auction. This explanation does not suit *maximis praemiis*. The idea rather is that a great price has been set on his head, and he can no longer call it his own' [Colson]. Cf. Tusc. D. v. 20 *praemium proposuit*, qui invenisset novam voluptatem.

6. **adde casus**: 'Cicero uses *adde* with an object, e.g. *hoc*, but not *adde quod* with a clause, this use being originally poetical' RH., p. 496.

7. **Martem communem**: cf. omnis belli *Mars communis* et semper incerti exitus proeliorum Fam. vi. 4. 1, Phil. x. 20, Hom. Il. xviii. 309, &c. The use of *Mars* for 'war' is a familiar case of metonymy, cf. de Or. iii. 167, Quintil. viii. 6. 23.

8. **ab abiecto**: 'has smitten at the hand of the fallen.' As Abram explains, 'Mars usus est abiecti manu tamquam instrumento.' Reid explains *ab* as='on the side of,' 'as the ally of,' comparing Rosc. Am. 85 clementissimus *ab* innocentia: see Landgraf ad loc.

10. **extremis comitibus**: cf. § 29 for Cicero's theory of the murder.

13. **expetiverunt**: Cicero prefers the unsyncopated form, since *ēxpĕtīērunt* would produce the reprehensible heroic clausula. Cf. Wüst, p. 72, and § 91 *n.*

14. **manu misit**: according to Metellus Scipio, these were twelve in number, and their manumission took place on the 19th, Ascon. 36. This method of defeating justice was forbidden by a rescript of Antoninus Pius: Dig. 48. 18. 1. 13.

esse a servis Milonis in Appia via P. Clodium confiteri. Quid opus est terrore? quid quaeris? Occideritne? occidit. Iure an iniuria? nihil ad tortorem; facti enim in eculeo quaestio
22 est, iuris in iudicio. Quod igitur in causa quaerendum est, id agamus hic; quod tormentis inveniri vis, id fatemur. Manu vero cur miserit, si id potius quaeris, quam cur parum amplis
58 adfecerit praemiis, nescis inimici factum reprehendere. Dixit enim hic idem, qui semper omnia constanter et fortiter, M. Cato, et dixit in turbulenta contione, quae tamen huius auctoritate placata est, non libertate solum, sed etiam omnibus praemiis dignissimos fuisse, qui domini caput defendissent. Quod enim praemium satis magnum est tam benevolis, tam bonis, tam fidelibus servis, propter quos vivit? etsi id quidem non tanti est, quam quod propter eosdem non sanguine et vulneribus suis crudelissimi inimici mentem oculosque satiavit. Quos nisi manu misisset, tormentis etiam dedendi fuerunt conservatores domini, ultores sceleris, defensores necis. Hic vero nihil habet in his

2. terrore H : *tortore* rell. occideritne *om.* H. occidit *om.* E. 4. id agamus : *indagamus* Mommsen. 5. inveniri H : *invenire* rell. 7. *nescit* H. 8. semper omnia H : *omnia semper* rell : M. *om.* H. 9. et dixit TE : *dixit* H ; *dixitque* δ.

2. **terrore . . . tortorem** : cf. Tusc. D. v. 80 cum *tortoris* os viderit, consistet . . . sine ullo animi *terrore*. For this sense of *terror* cf. Caecin. 33 *terrore periculoque mortis* repulerit. The alteration to *tortore* is slight [*tſrore*, i. e. *terrore*, being wrongly interpreted], and due to *tortorem* and *tormentis* infr.

occideritne? occidit : i. e. *servus*, or Milo. The ambiguity is intentional. For the words cf. Herenn. i. 27 intentio, '*occidisti Aiacem*,' infitiatio, '*non occidi*,' iudicatio, '*occideritne*,' de Inv. ii. 79.

3. **eculeo** : the most familiar *servilis poena*, corresponding to the 'rack.' It was in this position that the sufferer was tortured with red-hot plates of metal (*candentes laminae*), *ungulae* to tear the flesh, &c. : cf. Phil. xi. 7. The literature upon the subject is collected by Gallonius, *de Martyrum cruciatibus*. Rich says that the punishment was 'a sort of impalement,' but this does not suit the descriptions in the martyrologies. Also, though painful, it was not meant to be a fatal punishment.

4. **iuris in iudicio** : Cicero audaciously shifts his ground, and assumes that his *constitutio causae* is *iuridicialis*, i. e. that the point is *iure an iniuria* : whereas he had made it *coniecturalis*, i. e. *uter utri insidias fecerit*. On this point the evidence of the slaves might throw great light.

5. **inveniri** : cf. § 92 *servari n.*

8. **semper omnia** : this collocation removes the unpleasing rhythm *-er -cr . . . -er*, and places *semper* in the position of emphasis : cf. Madv. Ep. Cr. p. 49.

9. **et dixit** : cf. § 44 audistis . . . *et* aud., § 27 profectus . . . , *atque* ita prof., Verr. v. 121 errabas . . . *et* vehementer errabas.

11. **caput** : so Ascon. 35 manu miserat eos Milo sub hoc titulo, *quod caput suum ulti essent*.

13. **propter** : cf. §§ 81, 93, Rosc. Am. 63.

14. **sanguine . . . satiavit** : cf. Verr. v. 65 cum eius cruciatu atque supplicio pascere oculos animumque exsaturare vellent. The good people of Syracuse had been denied this innocent enjoyment in the case of the captured pirate!

16. **dedendi fuerunt** : cf. §§ 31, 38, for the indicative.

malis, quod minus moleste ferat, quam, etiam si quid ipsi accidat, esse tamen illis meritum praemium persolutum.

Sed quaestiones urgent Milonem, quae sunt habitae nunc in 59
atrio Libertatis. Quibusnam de servis? 'Rogas? de P. Clodi.'
Quis eos postulavit? 'Appius.' Quis produxit? 'Appius.'
Unde? 'Ab Appio.' Di boni! quid potest agi severius?
Proxime deos Clodius, accessit propius quam tum, cum ad ipsos
penetrarat, cuius de morte tamquam de caerimoniis violatis

1. quod: *quo* Ernesti. ipsi: *illi* T. 5. postulavit: *appellavit* Isidorus, p. 519. *qui prod.* H. 6. severius: *de servis nulla lege* (om. lege Tσ) *quaestio est in dominum, nisi de incestu* (*incesti* Hs et corr. in h) *ut fuit in Clodium*, add. codd. del. Heumann, Bake. 7. *proxime deos* E; *prox. ad deos* Reid. Clod. accessit HEs; *accessit Clod.* Tσχ: voc. *Clodius* del. Nohl. propius: *quod prius* T.

1. **moleste ferat**: 'that pains him less,' put modestly, since Milo as a *reus* should feel joy at nothing.

3. **quaestiones . . . quae sunt**: cf. § 22 *n.* *Nunc*, i. e. after all these days.

4. **atrio Libertatis**: on the Aventine, afterwards the site of Pollio's public library: Lanciani, p. 184.

5. **quis . . . Appius**: the words at the beginning and the end of the clause are alike repeated, thus producing the somewhat rare figure *complexio*. Cf. Leg. Agr. ii. 22, Aesch. Ctes. 202 ἐπὶ σαυτὸν καλεῖς, ἐπὶ τοὺς νόμους καλεῖς, ἐπὶ τὴν δημοκρατίαν καλεῖς, Volkmann, p. 400.

Appius: i. e. *maior*, who took the leading part in the prosecution, Ascon. 54.

6. **unde** = *a quo*: cf. § 46 *unde* quaesivit, Plaut. Most. 531 conveni illum *unde* hasce aedes emeram: so *ubi* = apud quem, e. g. Verr. iv. 29 ut eas per *illum ipsum* inspiceret, *ubi* erant depositae.

severius: 'more rigorous.' Cf. Att. iv. 16. 11 hoc tamen *agitur severius*, itaque indicia calent. The rigour consists in applying to the case the exceptional procedure only allowed in cases of sacrilege: thus treating the dead Clodius like an offended deity. This gives Cicero an opportunity of bringing in the inevitable reference to the Bona Dea scandal. The connection of *proxime deos* with *agitur severius* is violently disturbed by the intrusion of the words *de servis . . . in Clodium*. That these contain a scholium from the margin was seen by Heumann. The addition appears in H in a crude form, *quaestio incesti* being an irregular phrase, [the nearest parallels I find are *incesti* damnare Liv. ii. 42. 11, Quintil. vii. 8. 3, reus *incesti* Schol. Bob. in Clod. et Cur. Arg.] which in other MSS. is replaced by the usual idiom *de incestu*. Recent scholars try to embody the words in the text by elaborate punctuation: thus Müll. marks a parenthesis from *ut fuit* to *quaeritur*, while Trojel makes it begin at *nisi de incestu*. Punctuation, however, is not a panacea (cf. §§ 42, 67 for similar attempts), and both proposals increase the obscurity. For the information contained in the *scholium* cf. Orat. Partit. 118 cum *in dominos de servis* quaeri nolnissent, tamen *de incestu* et coniuratione, quae facta me consule est, quaerendum putaverunt. The prohibition, according to Tac. Ann. ii. 30, was contained in a *vetus sen. cons.* As a matter of fact, the slaves of Clodius were not examined against him then, since he had sent them to his brother Appius in Greece, or across the Alps to a bailiff, Diogenes. The *ancillae* of Pompeia were put to the question. [Schol. Bob. in Clod. et Cur. vi. 3.]

7. **proxime deos**: cf. Att. i. 14. 3, vi. 5. 3, Fam. v. 2. 4. Dr. Reid inserts *ad* here, though in his note on Ac. ii. 36 he takes a different view. The conjecture looks plausible, but there is no trace of *ad* in our MSS., and the ordinary reading is supported by Priscian and Arusianus. Cf. Kritz on Sall. Cat. ii. 1, and Weissenborn on Liv. xxi. 1. 2. *Proxime ad* occurs Leg. ii. 27 antiquitas *proxime* accedit *ad* deos, Lig. 38, Rab. Perd. 5: *proxime in* is not found.

8. **penetrarat**: i. e. he entered the *penetralia*: cf. Rep. vi. 24 haec ipsa in templa *penetravit*.

de caerimon. viol.: cf. Verr. i. 7: Dom. 105.

quaeritur. Sed tamen maiores nostri in dominum quaeri noluerunt, non quia non posset verum inveniri, sed quia videbatur indignum et dominis morte ipsa tristius: in reum de servo accusatoris cum quaeritur, verum inveniri potest? Age vero, quae erat aut qualis quaestio? 'Heus tu, Rufio,' verbi causa, 'cave sis mentiare. Clodius insidias fecit Miloni?' 'Fecit': certa crux. 'Nullas fecit': sperata libertas. Quid hac quaestione certius? Subito arrepti in quaestionem tamen separantur a ceteris et in arcas coniciuntur, ne quis cum iis colloqui possit; hi centum dies penes accusatorem cum fuissent, ab eo ipso accu-

1. *quaeratur* Hedicke. in dominum HE: *de servo* add. Tδ. 2. quia non Hδ: *quin non* TE; *quin* Halm. 3. indignum H: *esse* add. rell. dominis HEs¹: *domini* Tσχs², del. Wunder. 5. heus . . . causa, HTEs et h in mg.: varie corr. cett. dett. 6. mentiare Hs et h in mg.: *mentiaris* TE. 8. arrepti HTδ: *abrepti* E. *separantur tamen* T. 9. iis Hχ: *his* TEs. 10. accusatore *del.* Halm.

1. **quaeritur**: Cicero holds that Clodius is the guilty person, and so speaks as if his slaves were being examined *against him*, cf. infr. 'Clodius insidias fecit Miloni?' 'Fecit.' His argument is, 'it is wrong to examine the slaves of Clodius against Clodius: so *a fortiori* it is wrong to examine them against Milo.' Most editors refer *quaeritur* to the proposal to examine *Milo's* slaves: hence *quaeratur* is conjectured by Hedicke.

in dominum: the addition *de servo* found in T is taken from *l.* 3. Its omission by E shows that it was not in the common archetype: cf. § 53 *n.*

2. **non quia non**: a rare idiom, cf. Tusc. D. i. 1 *non quia . . . non* posset, sed . . ., and RH. *n.* 432. Gebhardi [Neue Jahrb. 1886, p. 864] proposes to read *non quin . . . posset* in Tusc. l. c. against all the MSS. in order to expel the idiom from Cicero!

3. **morte**: i. e. loss of civil status, after condemnation, cf. § 5 *n.*

5. **heus**: this is the only reference for the word in the speeches. It is a conversational word.

6. **sis**: also a conversational form. Cf. Orat. 154 *sodes* pro *si audes*, *sis* pro *si vis*, iam in uno *capsis* tria verba sunt. The dialogue is a good specimen of the *attenuata figura dicendi*: cf. ad Herenn. iv. 14 and 16, Quintil. viii. 3. 22.

mentiare: in the 2nd pers. of the pres. subj. Cicero generally uses *-re*, and not *-ris*. Cf. Roby, 570.

fecit: Rufio clumsily lets out the truth, as Cicero conceives it. For the proper questions to put to a slave under torture see Dig. 48. 18. 1. 21. The *quaesitor* should not ask *specialiter* 'an L. Titius homicidium fecerit,' sed *generaliter* 'quis id fecerit': alterum enim magis suggerentis quam requirentis videtur. Cf. ad Herenn. ii. 10.

7. **sperata**: obviously the comment of Cicero, not the reply of the quaesitor.

8. **arrepti**: for the frequent confusion between *arreptus* and *abreptus* see Wölfflin's Archiv, 1888, p. 250. The agreement of T with H here is decisive against *abrepti*.

separantur: the only explanation which I can find of this passage is that in Richt.-Eb. (Halm and Wirz have no note), who say that it refers to the *common* practice with slaves [werden *sonst* . . . wenigstens isoliert, *in diesem Falle* aber *hi*]. If this is so, I would conjecture *ceteri* for *a ceteris*, in order to supply a subject to *separantur* and an antithesis to *hi*. For this contrast cf. Clu. 190 apud *ceteros* . . . *haec* mulier . . . *Ceteri* . . . *illa* sibi. The alteration to *a ceteris* might easily occur after the passive *separantur*. Mr. Purser suggests that both clauses refer to the slaves of Clodius, which appears more likely. *Hi*, however, still seems superfluous. Possibly it is a relic of *ii*, this being the addition of a corrector, who wished to give the exact number of days: cf. § 98 *centesima . . . et altera*. [Dr. Reid translates *subito arr.*, &c. 'even slaves seized on the spot for enquiry,' i.e. *ii, qui subito arrepti sunt*. With deference to his authority, I should doubt if this use of the partic. is Ciceronian.]

9. **arcas**: Paulus, p. 264 on *robum*.

10. **penes**: an emphatic word. He had power over their persons.

accusatorem . . . accusatore: cf.

satore producti sunt. Quid hac quaestione dici potest integrius, quid incorruptius?

Quod si nondum satis cernitis, cum res ipsa tot tam claris **23** argumentis signisque luceat, pura mente atque integra Milonem, **61** nullo scelere imbutum, nullo metu perterritum, nulla conscientia exanimatum Romam revertisse, recordamini, per deos immortales, quae fuerit celeritas reditus eius, qui ingressus in forum ardente curia, quae magnitudo animi, qui vultus, quae oratio. Neque vero se populo solum, sed etiam senatui commisit, neque senatui modo, sed etiam publicis praesidiis et armis, neque his tantum, verum etiam eius potestati, cui senatus totam rem publicam, omnem Italiae pubem, cuncta populi Romani arma commiserat; cui numquam se hic profecto tradidisset, nisi causae suae confideret, praesertim omnia audienti, magna metuenti, multa suspicanti, non nulla credenti. Magna vis est conscientiae, iudices, et magna in utramque partem, ut neque timeant qui nihil commiserint, et poenam semper ante oculos versari putent qui peccarint. Neque vero sine ratione certa causa Milonis **62** semper a senatu probata est; videbant sapientissimi homines facti rationem, praesentiam animi, defensionis constantiam. An vero obliti estis, iudices, recenti illo nuntio necis Clodianae non

7. fuerit HE: *fuerat* Tσχ. 10. modo *om.* H. his: *iis* H. 11. eius *om.* σ: *ei s*; *omni* χ. 12. populi Romani: *R. P.* H. 13. cui: *cui?* TE. 19. videbant TE: *enim* add. Tδ. 20. An: *at* H.

§ 53 *n.* for the emphatic repetition. It is laid down in Dig. 48. 18. 1. 3 ad quaestionem non esse provocandos eos, quos *accusator de domo sua* produxit.

4. **argumentis signisque**: see p. liv.

8. **ardente curia**: i. e. on the night of the 19th, Ascon. 34: *fumante* would have been more accurate, though less rhetorical.

9. **neque . . . sed etiam**: for this figure, the so-called *κλῖμαξ* or *gradatio*, cf. Quintil. ix. 3. 55, who says that it should be used rarely, since its artificial character is so apparent. It is employed to sum up points already arrived at before going on to the next topic: see Landgraf on Rosc. Am. 62.

neque . . . modo, sed etiam; this form of transition, and *neque tantum, verum etiam* are only found here in the speeches. The Latin language was rich in such forms: 24 different combinations used by Cicero are tabulated by Hellmuth, p. 153, who also notes that *verum etiam*, as more sonorous, is specially affected by Cicero in his youthful speeches, occurring, e. g. 15 times in the Rosc. Am. It is frequently glossed by *sed etiam*, cf. §§ 3, 80 *cr. n.*

12. **pubem**: an archaism, cf. Plaut. Pseud. 126 *pube* praesenti in contione, omni *poplo*, and Paulus, p. 252 *pube* praesente est *populo* praesente, *συνεκδοχικῶς*, ab his, qui puberes sunt, omnem populum significans. The word is not used in this sense elsewhere in the speeches. For the use of archaic words as a decoration—'quibus . . . grandior atque antiquior oratio saepe videri solet'—cf. de Or. iii. 153. Dr. Reid remarks that 'phrases like *Romana pubes* are common in the poets, Livy, and later, but Caesar has only *omnes puberes*.'

15. **magna vis**: cf. Rosc. Am. 66 for a similar topic.

19. **a senatu probata**: so § 12. The statement is probably a highly coloured one.

modo inimicorum Milonis sermones et opiniones, sed non nullorum etiam imperitorum? negabant eum Romam esse rediturum.
63 Sive enim illud animo irato ac perdito fecisset, ut incensus odio trucidaret inimicum, arbitrabantur eum tanti mortem P. Clodi putasse, ut aequo animo patria careret, cum sanguine inimici explesset odium suum; sive etiam illius morte patriam liberare voluisset, non dubitaturum fortem virum quin, cum suo periculo salutem populo Romano attulisset, cederet aequo animo legibus, secum auferret gloriam sempiternam, vobis haec fruenda relinqueret, quae ipse servasset. Multi etiam Catilinam atque illa portenta loquebantur: 'Erumpet, occupabit aliquem locum, bellum patriae faciet.' Miseros interdum cives optime de re publica meritos, in quibus homines non modo res praeclarissimas
64 obliviscuntur, sed etiam nefarias suspicantur! Ergo illa falsa fuerunt, quae certe vera exstitissent, si Milo admisisset aliquid, quod non posset honeste vereque defendere.

2. imperitorum: *intimorum* E. F. Eberhard. 3. perdito HTEσχ: *percito* h, et v. l. in *s*. 4. eum: *enim* T. 7. quin, cum: *qui* Hedicke, mox *cedere, auferre, relinquere* scribens. 8. *secederet* E. legibus *del.* Ernesti. 9. vobis: *nobis* vett. edd. 14. *nefaria* H.

1. **sermones**: especially of 'scandal,' e. g. Cael. 76, Q. F. i. 2. 1.

2. **imperitorum**: i. e. 'short-sighted' or 'undiscerning,' not, as Halm, 'ignorant of Milo.' Cf. Sen. 29, where the *imperiti* form a class midway between the *prudentes* and the *improbi*.

3. **perdito**: this is the assumption of the *inimici* and *imperiti*, who might well use this adjective of Milo, cf. Sest. 15 hominis *perditi*, mihi *irati*. *Percito*, which is read by all editors, is the very clever conjecture of an anonymous Italian. It appears first in the later dett., there being no trace of it either in the *meliores* or in the unemended dett. The word is ἅπαξ λεγ. in Cicero: it would, however, naturally occur to a scholar conversant with Plaut. or Lucr.; cf. Casin. 606 *ira percitus*, Lucr. iii. 303 *irai* fax subdita *percit*. [The MSS. reading is also retained by Dr. Reid.]

6. **explesset**: cf. Verg. Aen. ii. 586.

7. **quin**: this construction after *dubito* in the sense of 'hesitate' is said to be rare. Dr. Reid on Cato M. 16, in an admirable note upon the constructions of *dubito*, quotes for this use, Imp. Pomp. 49, 68, Leg. Agr. ii. 69, and Mur. 67. These passages defend the text against the conjecture of Hedicke, which yields a very inferior rhythm.

8. **cederet legibus**: 'bow before the law,' euphemistically used of a person, who, like Cicero, went into exile without being condemned. Cf. Quintil. v. 11. 9 cum invidiae cesserint, ab exsilio reducendi. The suspicion cast upon *legibus* seems very uncalled for, since *cederet* by itself (= iret in exsilium, cf. §§ 68, 81, 93) is too prosaic an expression in this context.

9. **haec**: i. e. 'Rome, and all it contains'; a favourite use. Cf. Flacc. 104 liceat iis, qui *haec* salva esse voluerunt, ipsis esse salvis.

11. **portenta loq.**: so Att. ix. 13. 1 *mira scelera loquuntur*, ib. 8 *merum bellum loquitur*. Guttmann, p. 10, says that the use is a conversational one: it does not occur elsewhere in the speeches.

erumpet: that this was a likely course for a man of Milo's desperate courage to adopt was shown by his wild attempt in 48 B.C. p. xxx.

14. **nefarias**: the variant *nefaria* H is due to lipography (*-s* being omitted before susp.). When *nefarium* = nefas it is used with a pronoun or adjective, e. g. Rosc. Am. 30 *aliis nefariis*, Verr. iv. 60 *omnia nefaria*, Liv. ix. 34. 19 *eo nefario*, see Nägelsb. § 23 b., 24. 3.

Quid? quae postea sunt in eum congesta, quae quamvis etiam **24**
mediocrium delictorum conscientiam perculissent, ut sustinuit, di immortales! sustinuit? immo vero ut contempsit ac pro nihilo putavit! quae neque maximo animo nocens neque innocens, nisi fortissimus vir, neglegere potuisset. Scutorum, gladiorum, pilorum, frenorum etiam multitudo deprehendi posse indicabatur; nullum in urbe vicum, nullum angiportum esse dicebant, in quo non Miloni conducta esset domus; arma in villam Ocriculanam devecta Tiberi, domus in clivo Capitolino scutis referta, plena omnia malleolorum ad urbis incendia comparatorum; haec non delata solum, sed paene credita, nec ante repudiata sunt quam quaesita. Laudabam equidem incredibilem **65**
diligentiam Cn. Pompei, sed dicam, ut sentio, iudices. Nimis multa audire coguntur, neque aliter facere possunt ii, quibus

1. quamvis . . . conscientiam δ: *quamvis . . . conscientia* H; *-que vis conscientia* E; *quemvis . . . conscientia* T; *quemvis . . . in . . . conscientia* Ernesti; *quemvis . . . conscium* Lambinus. 5. *et scutorum* H. 6. pilorum frenorum Hs: *frenorum pilorumque* TEσχ; †*frenorum* Eberh.; pro voc. *frenorum* alii alia monstra somniaverunt, *framearum* m² in uno Ox. [χ^{3}], *soliferreorum* Wirz, *runarum* Richter. 8. *Mil. conducta non esset* T. 9. *Oriculanam* H. 10. *refertas* Heumann. *malleorum* Eδ. 14. *coguntur audire* E. ii χ: *hii* T; *hi* HE.

1. **quamvis . . . conscientiam**: i. e. *quemvis conscium*, the abstract being put for the concrete, cf. § 101 *hanc virtutem*, Dräger, § 8. This reading explains the variants. In H there is a slight corruption, TE alter to obtain a construction, the fault of H survives in the early dett.: and the genuine reading is recovered in the fifteenth century by conjecture.

6. **frenorum**: 'bridles,' this word comes naturally enough at the end of the clause. Milo would require bridles for horses, as well as weapons for his infantry. [Dr. Reid thinks that the mention of bridles is intended to throw ridicule on the story.] Its position in TE before *pilorum* has produced some wild conjectures, of which *framearum* is perhaps the most plausible, though German spears do not seem appropriate to Roman revolutionists. The conjecture of Richter, *runarum*, from Festus, p. 263 *runa* genus teli significat; Ennius, *runata recedit*, id est, *pilata*, and that of Wirz, *soliferreorum*, from Liv. xxxiv. 14, Fest. p. 298 *genus teli, totum ferreum*, deserve record on account of their extravagance. The arms are supposed to be stored, as in Att. vii. 14. 2 *scutorum in ludo* IOↃ *fuerunt*, a passage which I should interpret literally. For the charges brought against Milo cf. those made against Catiline, e. g. Plut. Cic. 18, 19, and the speeches in Catil. *passim*, Beesly, Catil. p. 29.

9. **Ocriculanam**: Cramer, i. 278.

devecta Tib.: 'brought down,' see Juv. vii. 121, and Mayor's note: contrast ib. v. 89 canna Micipsarum prora *subvexit* acuta.

clivo Capitolino: probably a house hired for the occasion; cf. supr. *conducta domus*. The Capitol was important as a strategical point. Thus it was held by Opimius against C. Gracchus, by Saturninus against the senate, by C. Manilius in 67 B. C., and by Cicero against the Catilinarians. Milo would have a house there, just as Parisian insurgents would secure a point on Montmartre. Wirz supposes this to be the house of Milo, *Anniana domus*, mentioned Att. iv. 3. 3, which is more probably another name for the house on the Cermalus (i. e. on the Palatine near the Tiber), mentioned in the same passage.

10. **referta**: the construction is changed, *arma, domus* being nominatives, afterwards summed up in *haec sunt*. Halm compares Rosc. Am. 133 habet . . . rus . . . praedia . . . *domus referta*, sc. est.

malleolorum: cf. Cat. i. 32 *malleolos* et faces ad inflammandam urbem. *Malleoli* = 'bombs' (Purser): *mallei* = 'hammers.'

commissa tota res publica est. Quin etiam audiendus popa Licinius nescio qui de circo maximo, servos Milonis apud se ebrios factos sibi confessos se de interficiendo Cn. Pompeio coniurasse; dein postea se gladio percussum esse ab uno de illis, ne indicaret. Pompeio nuntiatur in hortos; arcessor in primis; de amicorum sententia rem defert ad senatum. Non poteram in illius mei patriaeque custodis tanta suspicione non metu exanimari, sed mirabar tamen credi popae, confessionem ser-

1. commissa tota res publica est, scripsi: *commissa tota rei p. est* H; *tota commissa est res publica* rell.; fort. *commissa summa rei p. est.* Quin etiam audiendus, scripsi: *quin etiam fuerit aud.* HTEs; *quin etiam fuit aud.* edd.; *quin etiam aud. sit* σχ; *cui etiam fuerit aud.* Madvig. 2. servos: *qui vos* H. 3. confessos se H, Heumann: *confessos esse* rell. Cn. Hs: *om.* TEσχ. 4. dein: HEs; *deinde* Tσχ. 5. nuntiatur in hortos H: *in hortos nuntiavit* rell. 8. mirabar: *miserabar* H. popae: *Pompaeum* E.

1. **tota res p. est**: cf. §§ 61, 66, 67. I previously thought that the corruption in H, sc. *tota rei p.*, might stand for *summa rei p.* [Anecd. p. xliii.]. It is, however, more probable that *rei p.* is an error for *res p.* For a collection of such blunders see Müller's *cr. n.* on Sest. 78.

audiendus: *fuerit*, which is given in the *meliores* before *aud.*, is generally altered to *fuit*, the corruption being assigned to the wish of the copyists to have a subj. after *quin*: cf. Madv. on Fin. v. 74, and § 98 *cr. n.* I am loth to import ellipses into Cicero's formal works, but it seems quite likely that *fuerit* is the original form of an addition, meant to supply a verb. The dett. give *sit* in another position, which is another conjecture. The following are close parallels, N. D. i. 35 nec *audiendus* eius auditor Strato, Fin. ii. 41 nec vero *audiendus* Hieronymus, Off. i. 88 nec vero *audiendi* qui, Quintil. x. 3. 22 non tamen protinus *audiendi* qui. The confusion in the MSS. makes it probable that in Lael. 52, non ergo homines deliciis diffluentes *audiendi*, should be read [Anecd. p. xviii]. For the omission of the substantive verb with the gerundive cf. also de Off. i. 150, iii. 113, Cato M. 29 with Reid's note, and Kühner, ii. § 5 e. 1.

popa: i. e. butcher to a priest [Suet. Cal. 32]. Asconius calls him *sacrificulus*.

3. **confessos se**: a superior reading to *confessos esse*, since the omission of *esse* is very common in Cic. while that of *se* is so rare as to be questionable. Cf. §§ 52, 95, Madvig on Fin. v. 31, Reid on Ac. i. 18. In Clu. 176 de hoc Stratone . . . quaesituram *esse* dixit, *sese* should be read for *esse* [Bait.]; in Sest. 15 hunc . . . devinxerat nihil . . . contra me *esse* facturum, *sese* would be too emphatic, while *se* would spoil the rhythm.

Cn. Pompeio: the praenomen seems necessary. Cf. § 18, Dom. 127 de Cn. Pompeio . . . interficiendo, Har. Resp. 51. For the tendency to omit it cf. Asc. 39 ⟨Cn.⟩ Pompeio, where it is added by Bücheler, and §§ 26, 73, 75, &c.

4. **dein postea**: *dein* = next, *postea* = afterwards: so *deinde postremo*, de Inv. i. 43. For the form *dein* cf. Orat. 154 '*dein* etiam saepe et *exin* pro *deinde* et *exinde* dicimus': it is often replaced by the commoner form *deinde* in some MSS. as here, cf. Ac. ii. 144, &c. *Dein* occurs in all the MSS. *supr.* §§ 28, 41. Dr. Reid notes on § 28 that '*dein* is only well attested in six passages in Cicero, of which these are three.' I think it, however, more probable that *deinde* has in other places supplanted *dein*, than that *deinde* should be written here, as he proposes.

5. **nuntiatur**: i. e. the news is first passed to Magnus through an intermediary: *nuntiavit* would imply that Licinius went straight in. For the construction cf. § 51 *n.*

6. **de amicorum sententia**: Pompey, like every Roman, calls together a *consilium* of his friends before taking an important step: cf. Cael. 68, Tac. Ann. iii. 10, &c.

7. **metu**: i. e. 'for the safety of so valuable a life,' cf. § 19. The thought is, 'I shared his fear, but still I thought him credulous.' Dr. Reid interprets, 'fear on Milo's account.'

vorum audiri, vulnus in latere, quod acu punctum videretur, pro ictu gladiatoris probari. Verum, ut intellego, cavebat magis 66
Pompeius quam timebat, non ea solum, quae timenda erant, sed omnia, ne vos aliquid timeretis. Oppugnata domus C. Caesaris, clarissimi ac fortissimi viri, multas noctis horas nuntiabatur; nemo audierat tam celebri loco, nemo senserat, tamen audiebatur. Non poteram Cn. Pompeium, praestantissima virtute virum, timidum suspicari; diligentiam pro tota re publica susceptam nimiam nullam putabam. Frequentissimo senatu nuper in Capitolio senator inventus est, qui Milonem cum telo esse diceret. Nudavit se in sanctissimo templo, quoniam vita talis et civis et viri fidem non faciebat; ut eo tacente res ipsa loqueretur. Omnia false atque invidiose ficta comperta sunt.

1. probari HEs[1]: *putari* Tσχs[2]. 4. ac H: *et* rell. multas H: *per multas* TE; *per multas* sχ. 5. audiebatur: *a senatu* add. H; om. *tamen audiebatur* unus Ox. [χ[3]]. 7. pro tota re p. susceptam, s. Gulielmius; *pro tota re p. suscepta* H; *tota re p. suscepta* rell. 12. *verb.* omnia . . . sunt *seq. paragrapho adiungi solent.* false H: *falsa* rell. invidiose Ox. unus [λ]: *insidiose* Hχ; *insidiosa* TEσs.

1. **audiri**: as implicating their master, cf. Dig. 48. 18. 18. 5.

2. **probari**: cf. Ter. Eun. ii. 3. 84 facile ut pro eunucho *probes*.

4. **aliquid**: = 'something or other': *quidquam* = 'anything at all.' For the use of *aliquis* in negative sentences see Nettleship, p. 126.

5. **multas**: the ordinary idiom. For the addition of *per* cf. Cat. iii. 20 ludi decem *per* dies facti sunt.

7. **tam celebri loco**: the official residence of Caesar as pontifex maximus was on the Sacra via [Suet. Caes. 46]. Cf. de Inv. i. 80 in loco *celebri*, Scaur. 45 *celebritas* loci, Verr. iv. 107 *celeberrimo* . . . conventu, &c.

tamen audiebatur: *audio* is used in two slightly different senses, (i) hear the noise, (ii) listen to the story. Cf. N. D. i. 35. The construction of *audiebatur* is somewhat harsh, and I am by no means sure that in *aud. a senatu* [H] we have not the original form of a silly comment which has crept in from the margin. The omission *tamen aud.* by an Oxford det. probably shows that the same suspicion occurred to some early scholar.

8. **pro tota re p. susceptam**: cf. Sest. 71 iter *pro* mea salute *suscepit*, Planc. 103 inimicis meis . . . quos ego *pro* vestra salute *suscepi*. For the correction in the 15th cent. of the slip in H, sc. suscepta, cf. § 64 *n.*

9. **nimiam nullam**. The suggestion of Becher [Phil. xliii. 346] that these words contain a double-edged meaning, i.e. 'I thought excessive care to be nugatory,' [*nullam*], is more ingenious than convincing.

10. **senator**: P. Cornificius by name, Ascon. 38; nothing more is known of him. L. Cornificius was one of Milo's accusers *de vi* under the Plotian law, ib. 54.

cum telo esse: against the edict of Pompey, 'ut ne quis in urbe cum telo esset,' Plin. N. H. xxxiv. 139.

11. **in sanctissimo templo**: though to do this was *nefas*, Val. Max. ii. 1. 7.

12. **eo**: not *se*, since the subjunctive expresses consequence, not purpose.

13. **false**: I accept this rare form from H. Krebs-Allg. say that it is an unusual form for *falso*: cf. Neue, ii. 623, and RH. n. 250. Its chief stronghold is in a passage of Sisenna [Charisius, Keil, i. 199] iudicium *false factum*. It is printed by recent edd. with the best MSS., de Invent. ii. 36 *confingi* quamvis *false*, which closely resembles the present passage. Most MSS. also give it Ac. ii. 141. If Cicero could use the word, and it is difficult to see why he should not, this is the place for it, since *false* exactly corresponds to *invidiose*, thus balancing the sentence. *Falso* would spoil the rhythm, and the ordinary reading *falsa* is over-balanced by the

25 67 *Non* tamen, si metuitur etiam nunc Milo, non iam hoc Clodianum crimem timemus, sed tuas, Cn. Pompei (te enim appello, et ea voce, ut me exaudire possis) tuas, inquam, suspiciones perhorrescimus. Si Milonem times, si hunc de tua vita nefarie aut nunc cogitare aut molitum aliquando aliquid putas, si Italiae dilectus, ut non nulli conquisitores tui dictitarunt, si haec arma, si Capitolinae cohortes, si excubiae, si vigiliae, si delecta iuventus, quae tuum corpus domumque custodit, contra Milonis impetum armata est, atque illa omnia in hunc unum constituta, parata, intenta sunt, magna in hoc certe vis et incredibilis animus et non

1. *non* tamen si, scripsi: *cum tamen si* codd.; *cum tamen* Madv. Op. Ac. ii. 328. idem postea *quo tamen si*? *quod si tamen* Lambin., *verum tamen si* Schultz. Milo: *Miloni* G. Wolff. Philol. xvii. 727 edd. recc. plerique. iam: *tamen* vel *tam* Ascon. codd. 2. enim Hs, Ascon.: *enim iam* TEσχ. 3. et Ascon.: *om.* codd. exaudire Ascon.: *audire* codd. tuas Hδ, Ascon.: *tuas, tuas* TE. 4. Si Milonem times *om.* H. 7. si *ante* Capit. *om.* H. 9. constituta H: *instituta* rell. 10. *certe in hoc* E.

two words *insidiose ficta*. The sentence *omnia . . . sunt* is generally assigned to the next section. As it sums up the points urged and draws a conclusion, I have altered the punctuation.

12. p. 57. **invidiose**: cf. Ac. ii. 105 sint *falsa* sane, *invidiosa* certe non sunt. The *invidia* of Milo is continually referred to, e. g. § 91, Ascon. ad loc. 34, 38, &c.: and cf. Clu. 164 *invidiosus reus*, de Pet. Cons. 10. *Insidiose*, i. e. per insidias, though it has overwhelming MSS. evidence in its favour, does not seem appropriate. What were the *insidiae*?

sunt: for the monosyllabic clausula cf. § 85 solutae *sunt*, Phil. ii. 13, 98, Wüst, p. 41.

1. *Non* **tamen, si**: the emendation which I offer for the MSS. *cum tamen si* is in keeping with the rest of the passage, which is full of repetitions, e. g. *si metuitur . . . Milo, . . . si Milonem times, tuas . . . te . . . tuas*, followed by *si* repeated eight times. For the repetition of *non* cf. Har. Resp. 37 *non* ignovit, mihi crede, *non*, Krebs-Allg. on § 2 ['das zweite *non* wegen der Zwischensätze kraftvoll wiederholt ist'], Clu. 96, Verr. i. 10, Catullus, xiv. 16, &c. My view of the passage is that with *sunt* Cicero winds up and dismisses the previous subject. He then draws fresh breath, and begins an impassioned appeal to Pompey. It may be noted that Asconius begins his quotation with *non iam hoc*, which looks as if he assigned the words to a new sentence. The conjectures which have been made are endless. A good sense is given by *verum tamen si* [Schultz], or *quodsi tamen* [Lambin.]. Madvig's emendation *cum tamen met. et n. Milo*, 'and yet Milo is still feared' (cf. Verr. v. 74, &c.), cuts the knot by striking out *si*, the difficult word. G. Wolff's attempt to heal the passage by a new punctuation is very ingenious, but (*a*) it assumes a connection between this and the previous clause against Ascon., and (*b*) the conjecture *Miloni*, sc. 'if we are fearful *for* Milo,' perverts the sense. The fears caused *by* Milo are throughout spoken of: e. g. *si Milonem times* infr.

2. **appello, et ea**: *iam*, which in most MSS. occurs before *appello*, is repeated from the previous line: *et* is only vouched for by Ascon., whose MSS. are an insufficient guide upon such points. The insertion, however, seems Ciceronian: cf. § 58 *n.*

3. **exaudire**: for the variant *audire* cf. §§ 16, 78, 101, 105. *Exaud.* = 'hear at a distance': Pompey was seated by the *aerarium* before the temple of Saturn, Ascon. 41.

suspiciones: see Ascon. ad loc.

5. **aliquando aliquid**: very frequently joined, e. g. Planc. 33, 35. Cf. ne *quando quid* Att. x. 12. 3.

7. **Capitolinae cohortes**: cf. § 64 *n.*, Att. ii. 1. 7 equitatus ille, quem ego in clivo Capitolino te signifero ac principe collocaram.

9. **armata est**: 'agrees only with *iuventus* and is awkward as *haec arma* precedes' [Reid].

constituta: 'stationed,' the usual word in this context, cf. Pis. 11 *arma* constit.,

unius viri vires atque opes iudicantur, si quidem in hunc unum et praestantissimus dux electus et tota res publica armata est. Sed quis non intellegit omnes tibi rei publicae partes 68 aegras et labantes, ut eas his armis sanares et confirmares, esse commissas? Quod si locus Miloni datus esset, probasset profecto tibi ipsi, neminem umquam hominem homini cariorem fuisse quam te sibi, nullum se umquam periculum pro tua dignitate fugisse; cum illa ipsa taeterrima peste se saepissime pro tua gloria contendisse; tribunatum suum ad salutem meam, quae tibi carissima fuisset, consiliis tuis gubernatum; se a te postea defensum in periculo capitis, adiutum in petitione praeturae; duos se habere semper amicissimos sperasse, te tuo beneficio, me suo. Quae si non probaret, si tibi ita penitus inhaesisset ista suspicio, ut nullo evelli posset modo, si denique Italia a dilectu, urbs ab armis sine Milonis clade numquam

6. homini: *hominum* H. 8. illa ipsa HE: *ipsa illa* Ts; om. *ipsa* σχ. 14. inhaesisset: *insedisset* δ. ut nullo H: *nullo ut* rell. posset modo H: *modo posset* rell.

Caes. B. G. vii. 49. 1 *cohortes* constit., Clu. 156 *praesidia* constit., &c. The variant *instit.* is due to the confusion of *in-* and *con-*, cf. § 69 *n.*

4. **aegras . . . labantes**: the first epithet is taken up by *sanares*, and the second by *confirmares*, cf. § 28 *n.* For the metaphors see Marc. 23, 24.

5. **locus Miloni**: Pompey refused to see him, Ascon. on § 67. He behaved in a similar manner to Cicero in 58, ὁ Πομπήϊος οὐχ ὑπέμεινεν εἰς ὄψιν ἐλθεῖν . . . καὶ κατὰ θύρας ἄλλας ὑπεξελθὼν ἀπεδίδρασκε τὴν ἔντευξιν Plut. Cic. 31.

6. **neminem . . . hominem homini**: '*nemo homo*, a phrase common in comedy, is in Cicero generally separated by one or two words, a rule broken Sull. 25, Fam. xiii. 55. 1' Landgr. on Rosc. Am. 135. The corruption in H points to a variant *nem. hominum*: for which cf. Att. viii. 2. 4 facio pluris omnium *hominum neminem*. For the repetition in the present passage cf. N. D. ii. 96 nemo *hominem homo* agnosceret, Off. ii. 16, 17, and Landgraf, *de fig. etym.* p. 51.

10. **fuisset**: the tense is intentional, since Pompey's devotion is now a thing of the past.

a te . . . defensum: see § 40.

11. **capitis**: an exaggeration, since apparently only a *multae irrogatio* was concerned.

12. **praeturae**: Milo would naturally hold the praetorship three years before his consulship, i. e. in 55. We have no record of any act performed by him as praetor, and he did not go to a province. As Pompey was now reconciled to Clodius, it may be doubted if he did much for Milo, § 21 *n.* Cf. his conduct to Scaurus Att. iv. 15. 7, Q. F. iii. 8. 3.

te . . . suo: a neatly-put and subtle distinction between the characters of Pompey and Cicero. Pompey, the μεγαλόψυχος, prefers those under an obligation to him: cf. Ar. Eth. iv. 3. 25 δοκοῦσι δὲ καὶ μνημονεύειν οὓς ἂν ποιήσωσιν εὖ, ὧν δ' ἂν πάθωσιν οὔ. He consistently betrayed his faithful servants. Cicero, who was of a gentler nature, was pre-eminently the *gratus homo* [Fin. ii. 72, Q. F. ii. 4. 1], as is shown by his devotion to the bravo Milo, and the churlish Sestius. For the thought in this passage cf. Att. iii. 15. 4.

14. **inhaesisset**: a forcible word: the metaphor is continued by *evelli*. For *insedisset* cf. Imp. Pomp. 7, Balb. 4.

15. **clade**: the word is a strong one, being generally used of an entire army. Livy uses it of one person, ii. 36. 4. For the exaggeration cf. § 5 *n.*

esset conquietura, ne *ipse* haud dubitans cessisset patria, is qui ita natus est et ita consuevit; te, Magne, tamen ante testaretur,
26 quod nunc etiam facit. Vides, quam sit varia vitae commuta-
69 bilisque ratio, quam vaga volubilisque Fortuna, quantae infidelitates in amicitiis, quam ad tempus aptae simulationes, 5 quantae in periculis fugae [proximorum], quantae timiditates. Erit, erit illud profecto tempus et illucescet ille aliquando dies, cum tu †salutaribus, ut spero, rebus tuis, sed fortasse motu

1. *ipse*, scripsi : *iste* codd.; *ille* Kays.; *is* Garat. 2. ante testaretur Hs, Lambin. : *an testaretur* E; *antestaretur* T. 3. vides HE : *vide* Tδ. 4. Fortuna, scripsi : *fortuna* vulg. 5. amicitiis HE : *amicis* Tδ. 6. *ante* proximorum *commate distinguit* Eberhard : *mihi verbum spurium videtur.* 7. *et illud* T. ille aliquando HE : *aliquando ille* Tδ. 8. †salutaribus HEδ : *salubritatibus* T : *salvis* Anton. Augustinus; fort. *integris* v. p. xliii. motu Tδ : *metu* HE.

1. **ipse** : i. e. *sua sponte*. The MSS. *iste* is kept by modern editors, as expressing sympathy, cf. Clu. 201 ne *iste* miser saepe et multum queretur. This hardly suits the defiant attitude of Milo. *Is* does not sound well, while *ille* is not used of Milo, § 56 *n*. For the confusion of *iste* and *ipse*, which I conjecture, cf. Reid on Ac. i. 2, and Landgraf, krit. Anh. on Rosc. Am. 18.

2. **Magne** : the title is here used to remind Pompey that as he is great, he should also be generous. He is constantly termed *Magnus* in the Letters, and was probably always styled so by his intimates, just as e. g. the friends of Clodius addressed him as *Pulcher* : cf. Dom. 22. Lucan constantly employs it. Curiously enough it has not passed into currency as a name for Pompey in modern writers.

ante testaretur : 'would call you to witness,' sc. to his merits. The impf. is more vivid than the plupf. would have been. The variant *antestaretur* can only mean, 'would summon you as a witness,' [i. e. by plucking your ear, Hor. Sat. i. 9. 76], '*to his case against his country*.' No instance of the word is quoted except in this technical sense, and it seems bold to say with Poynton, that 'if we had more legal Latin, we should find a parallel' to the sense assigned to it here. That T misrepresents the archetype of TE is shown by the reading of E. The corruption is a familiar one, *-te* being omitted by lipography. I am glad to see that Dr. Reid has adopted this certain reading.

3. **commutabilis** : only here in the speeches. According to Rebling (röm. Umgangspr. p. 24), only a limited number of these adjectives in *-bilis* found their way into the *sermo urbanus*.

4. **volubilis Fortuna** : for the imagery cf. ad Herenn. ii. 36

saxoque instare in globoso praedicant volubili :
id quo saxum impulerit fors, eo cadere Fortunam autumant.

Fortuna appears to be personified : cf. §§ 83, 87 *n*.

6. **fugae** : RE place a comma before this, and take *prox.* with the following clause, in order to preserve the symmetry ['durch die Interpunktion davor wird die symmetrische Länge der Glieder gewahrt.'] The anaphora, however, of *quantae . . . quam*, &c. shows that *quantae* should come first in the clause. I prefer to bracket the word. *Fugae* does not require a genitive of its own, since *amicorum* can readily be supplied from *amicitiis*. For similar reflections cf. Fam. ii. 7. 2.

7. **erit** : Cicero's 'political augury' was a weak point with him, and it is possible that, as has been suggested, he may have inserted this passage after Pharsalus : cf. Fam. vi. 6. 4 dicerem quae ante futura dixissem, ni vererer ne *ex eventis fingere* viderer. Later writers took his pretensions seriously, e. g. Nepos, Att. 16. 4 non enim Cicero ea solum, quae vivo se acciderunt, futura praedixit, sed etiam quae nunc usu veniunt, *cecinit ut vates*.

8. **†salutaribus** : this word cannot be right, since *salutaris* = 'health-giving,' while *salubribus* is no better. The only correction which has any *prima-facie* plausibility is *salvis rebus* [omitting *rebus* before *tuis*] : for which cf. Fam. iv. 1. 1

aliquo communium temporum, qui quam crebro accidat experti scire debemus, et amicissimi benevolentiam et gravissimi hominis fidem et unius post homines natos fortissimi viri magnitudinem animi desideres. Quamquam quis hoc credat, Cn. Pompeium, 70
5 iuris publici, moris maiorum, rei denique publicae peritissimum, cum senatus ei commiserit, ut videret ne quid res publica detrimenti caperet, quo uno versiculo satis armati semper consules fuerunt etiam nullis armis datis, hunc exercitu, hunc dilectu dato iudicium exspectaturum fuisse in eius consiliis vindi-
10 candis, qui vi iudicia ipsa tolleret? Satis iudicatum est a Pompeio, falso ista conferri in Milonem; qui legem tulit, qua, ut ego sentio, Milonem absolvi a vobis oporteret, ut omnes confitentur, 71

1. *in communium* TE: *inclinatis comm.* Halm; *impendente comm.* Lange. temporum HETσ: *immutatis* add. χ, Manutius; *immutatus* s. 4. *desideras* E; *desiderabis* Bake. 6. ei *om.* T. 9. eius : *eis* H. 10. vi H : *vel* rell. 11. falso Hχs, Heumann : *satis, falso* TEσ. 12. *oportet* H.

utinam, Servi, *salvis rebus* . . . colloqui potuissemus. The corruption, however, hardly looks as if it had its origin in this simple reading. I should be inclined to consider *salutaribus* a silly guess put in to fill an ancient *lacuna*. Possibly the lost word was *integris*, which Cicero is partial to in this connection, e. g. Fam. i. 7. 10 *tuis rebus integris*, Verr. iii. 27 *integra re* an perdita. [Dr. Reid defends *salutaribus* by Att. ix. 11. 4 et haec perdita sunt et illa *non salutaria*, but there *salut.* seems to have its usual active sense, i. e. *non salutaria* = pestifera; cf. N. D. ii. 122 secernerent *pestifera* a *salutaribus*.]

motu aliquo comm. temp.: cf. Q. F. iii. 9. 3 de *motu temporum* . . . de *communi* reip. statu, Flacc. 94, de Or. i. 2. *Motus* and *metus* are frequently confused in MSS., e. g. § 34 *metu* TE: *motu* δ. They are punned upon, Sest. 99 propter *metum* poenae . . . novos *motus* reip. quaerant. The abl. is one of cause. The corruption in TE *in com-* may be paralleled from Att. i. 16. 12 exspectatio *com*itiorum, where M. gives exspect. *in com*it., and Ac. ii. 34 proprium *com*muni (so most edd.), where the MSS. have proprium *in com*muni. It is due to the confusion of *in* and *con*, cf. § 67 *n.* The emendations founded upon this *proprius error* are therefore perverse. The addition *immutatis* or *-us* found in some late dett., is a conjecture proceeding from an Italian scholar who wished to help out the construction: cf. § 63 *n.*

6. senatus commiserit: cf. p. xxiv for the date, and for the validity of the *sen. cons. ultimum* see Sall. Cat. 29 and Mommsen's criticism of the optimate doctrine, iv. 178. As he elsewhere points out [Staatsr. iii. 1243. 2] the *mos maiorum* only went back to the time of Tiberius Gracchus, i. e. a period of 70 years.

7. uno versiculo: cf. Leg. ii. 14 leges uno *versiculo* senatus puncto temporis sublatae, Dom. 44: so Fam. ix. 10. 1 duobus *versiculis* expensum Niciae, of an entry in a ledger: and Att. ii. 16. 4 primis *versibus*, of lines in a letter.

10. vi iudicia ipsa tolleret: so Sen. 19 *sin ipsa iudicia vis . . . tolleret*. The antithesis between *vis* and *iudicia* is a commonplace in Roman oratory, e. g. ad Herenn. ii. 22 *locus communis* contra eum, qui plus censeat *vim* quam *iudicia* valere oportere: cf. § 39 *n.*, Sest. 53, 92, 135, &c. RE., who retain the very weak *vel*, strangely remark that *vi* is superfluous with *tolleret*; a singular criticism sufficiently refuted by the first quotation given!

satis iudic.: the features of Pompey are supposed to soften at this appeal. Cf. the story of the effect upon Caesar when he heard the pro Ligario, Plut. Cic. 39 πολλὰς μὲν εἶναι χρόας . . . τέλος δὲ ἐκπαθῆ γενόμενον τινα χθῆναι τῷ σώματι. The second *satis* given by most MSS. is probably an addition. The pause in delivery after *Pompeio* would prevent *falso* from offending the ears.

12. oporteret: the subj. expresses the feeling of Pompey, when he conceived the law.

liceret. Quod vero in illo loco atque illis publicorum praesidiorum copiis circumfusus sedet, satis declarat se non terrorem inferre vobis (quid enim minus illo dignum quam cogere, ut vos eum condemnetis, in quem animadvertere ipse et more maiorum et suo iure posset), sed praesidio esse, ut intellegatis contra hesternam illam contionem licere vobis quod sentiatis libere iudicare.

27 72 Nec vero me, iudices, Clodianum crimen movet, nec tam sum demens tamque vestri sensus ignarus atque expers, ut nesciam, quid de morte Clodi sentiatis. De qua si iam nollem ita diluere crimen, ut dilui, tamen impune Miloni palam clamare ac mentiri gloriose liceret: Occidi, occidi, non Sp. Maelium, qui annona levanda iacturisque rei familiaris, quia nimis amplecti plebem videbatur, in suspicionem incidit regni appetendi, non Ti. Gracchum, qui collegae magistratum per seditionem abrogavit, quorum interfectores implerunt orbem terrarum nominis sui

1. in *om.* H. 3. eum *om.* H. 4. animadvertere Tδ, Ascon.: *animati v.* H.; *animum adv.* E. suo: *tuo* H. 5. *possit* A. Eberhard. sed: *et* T, Ascon. esse: *esset* Ascon. 11. *metiri* H. occidi, occidi, TEδ, Quintil. ix. 3. 28 [Mart. Cap. p. 479 variant codd.], Aquila Rom. p. 27: *occidi* H. Quintil. v. 11. 12 codd. Bs, Isid. p. 520. 13. videbatur P. Quintil. v. 11. 12: *putabatur* rell. appetendi: *affectandi* Quintil. cod. A. 14. abrogavit, PHs: *abrogabit* E; *abrogabat* T. 15. *inpleverunt* P.

1. **in illo loco**: Cicero regularly says *sedere in*, e. g. Cln. 54. 147: the simple abl. is found in Livy, and Augustan writers.

2. **terrorem**: cf. § 2.

4. **animadvertere**: 'this form is generally used in the phrase *animadv. in aliquem* though *animum adv. in* is also found, e. g. Fam. v. 2. 8' Krebs-Allg.

5. **posset**: the impf., since he might have taken action already.

hesternam: § 3 *n.*

7. **Nec vero**: Cicero now takes up his second line of defence, *extra causam*, see p. lvi.

11. **mentiri gloriose**: an oxymoron, cf. Hor. Od. iii. 11. 35 *splendide mendax*, and Eur. Bacch. 334 *κατεψεύδου καλῶς*. This sense of *gloriosus* is fairly common, e.g. Fin. i. 37 *illustribus et gloriosis*, Att. viii. 12. 5, ib. xi. 7. 4, Fam. vi. 6. 2, &c., and yields here a more appropriate meaning than 'boastful,' e. g. *Miles Gloriosus*, the usual signification of the word.

occidi, occidi: Quintil. ix. 3. 28 quotes the passage as an example of *geminatio*: the first 'occidi' *indicat*, the second *adfirmat*.

14. **abrogavit**: see Momms. iii. 92. The precedent set by Ti. Gracchus was followed by Gabinius, when his colleague Trebellius vetoed his law giving Pompey the command against the pirates. Trebellius, not thinking him in earnest, persisted until 17 tribes had voted for his deposition, and only one more was necessary to carry the *rogatio*, whereupon he withdrew. For this conduct Cicero praises Gabinius, in his speech pro Cornelio, 'quae vir fortis, A. Gabinius in re optima fecit omnia, neque . . . *passus est plus uniius collegae sui* quam universae civitatis vocem valere' (Ascon. in Cornel. 71), a singular doctrine for so good a constitutionalist!

15. **implerunt**: see § 8 *n.* for the syncopated form.

orbem terrarum: Krebs-Allg. say that *orbis terrarum* strictly signifies the Roman world, e. g. infr. *orbem terrarum* partitus est, while *orbis terrae* signifies the whole world, e. g. N. D. ii. 165 *orbem terrae* . . . partis eius . . . Europam, Asiam, Africam. The latter phrase is, however, often used for the former through rhetorical exaggeration: e. g. Cat. i. 3 *orbem terrae* caede atque incendiis vastare. *Orbis* by itself [cf. § 90] is only used in poetry and in silver Latin.

gloria, sed eum (auderet enim dicere, cum patriam periculo suo liberasset), cuius nefandum adulterium in pulvinaribus sanctissimis nobilissimae feminae comprehenderunt; eum, cuius supplicio 73 senatus sollemnes religiones expiandas saepe censuit; eum, quem cum sorore germana nefarium stuprum fecisse L. Lucullus iuratus se quaestionibus habitis dixit comperisse; eum, qui civem, quem senatus, quem populus Romanus, quem omnes gentes urbis ac vitae civium conservatorem iudicarant, servorum armis exterminavit; eum, qui regna dedit ademit, orbem terrarum quibuscum voluit partitus est; eum, qui plurimis caedibus in foro factis singulari virtute et gloria civem domum vi et armis compulit; eum, cui nihil umquam nefas fuit nec in facinore nec in libidine; eum, qui aedem Nympharum incendit, ut memoriam publicam recensionis tabulis publicis impressam exstin-

1. suo *om.* Quintil. 4. *expediandas* H. 5. L *om.* H. 7. Romanus PHs: *om.* TE. gentes *om.* P. 8. iudicarant PH: *iudicabant* TEδ. 11. vi et: *ac* T. 12. cui: *cum* H. fuit: *sit* H. nec . . . nec: *neque* . . . *neque* H. 14. *publicae* Naugerius.

1. **periculo suo**: i.e. at the cost of danger to himself, cf. §§ 63, 82, and ad Herenn. iv. 66 *ego capitis mei periculo patriam liberavi.* Quintil. by omitting *suo* destroys the sense.

2. **pulvinaribus**: cf. Har. Resp. 8 qui *pulvinaribus* Bonae Deae stuprum intulerit, ib. 33 quo *pulvinari*? quod stupraras.

3. **compreh.**: = depreh., cf. Cat. iii. 17 coniuratio . . . *comprehensa* est.

6. **quaestionibus habitis**: i.e. he in his capacity as a *paterfamilias* examined by torture his wife's *ancillae.* For the atrocious cruelty with which such a *quaestio* might be conducted cf. Clu. 176 sqq. Lucullus reported their confession when Clodius was being tried for sacrilege. Plutarch. Cic. 29, says that he produced the *ancillae* themselves in court, which is obviously a blunder. The sister of Clodius here concerned is the younger Clodia: the scandal concerning his elder sister, the famous *βοῶπις*, was more widely diffused: cf. Ellis, Comment. on Catull. p. lx sq.

comperisse: a judicial word used of the magistrate, who ascertained the facts. Cf. Cicero's favourite phrase at the time of the Catilinarian conspiracy—*omnia comperi.* His use of the word was satirized by his enemies; cf. Att. i. 14. 5 me tantum '*comperisse omnia*' criminabantur, and he became somewhat shy of it, Fam. v. 5. 2 '*comperisse*' me non audeo dicere.

7. **civem**: i. e. himself.

9. **dedit**: sc. Brogitaro, Sest. 56.

ademit: sc. Ptolemaeo, ib. 57.

10. **quibuscum voluit**: sc. Piso and Gabinius, the former of whom obtained Macedonia with Achaia, and the latter Syria. They are called *mercatores provinciarum* Fam. i. 9. 13 as having purchased them by subserviency to Clodius.

11. **civem**: i.e. Pompey, § 18.

12. **nec . . . nec**: for the usual uncertainty of the reading cf. § 29 *n.*, and for *nihil nec*, Madv. 460. obs. 2.

13. **aedem Nympharum**: in the Campus Martius, if a somewhat bold restoration of an inscription is correct, sc. *Nymp*his in campo [Mommsen, Staatsr. ii. 360. 2]. The context here shows that the records of the censors were kept there. If the charge is true, the object of Clodius was, after destroying the register, to 'gerrymander' the tribes by introducing freedmen into other than the *tribus urbanae.* The act of incendiarism, as Dr. Reid points out, is here and Parad. 31 attributed to Clodius, but in Cael. 78 to his hangeron, Sextus.

memoriam publicam: so Leg. iii. 46 publicis litteris consignatam *memoriam publicam* nullam haberemus. Such a de-

74 gueret; eum denique, cui iam nulla lex erat, nullum civile ius, nulli possessionum termini, qui non calumnia litium, non iniustis vindiciis ac sacramentis alienos fundos, sed castris, exercitu, signis inferendis petebat, qui non solum Etruscos (eos enim penitus contempserat), sed hunc P. Varium, fortissimum atque 5 optimum civem, iudicem nostrum, pellere possessionibus armis castrisque conatus est, qui cum architectis et decempedis villas multorum hortosque peragrabat, qui Ianiculo et Alpibus spem possessionum terminarat suarum, qui cum ab equite Romano splendido et forti, M. Paconio, non impetrasset ut sibi insulam 10

1. *lex nulla* T. 3. *vindictis* δ. 5. hunc P.: *huncp.* H; *hunc C* vel *T.* (teste Zuretti) P.; *hunc c. p.* TE; *hunc Cn. Pompeium* δ. Varium PTE: *Varum* H; *virum* δ. 9. *terminabat* P: terminarat rell. 10. forti M.: *fortissimo* H. sibi *om.* T.

struction of public documents was not confined to Clodius. Cicero with a band of friends destroyed the records of the tribunate of Clodius, which were lodged in the Capitol—*τὰς δημαρχικὰς δέλτους . . . ἀπέσπασε καὶ διέφθειρεν*, Plut. Cic. 34.

2. **calumnia litium**: i. e. 'by vexatious law-suits': cf. *calumniam ferre* = 'be convicted of bringing malicious accusation' Fam. viii. 8. 1, *calumniam iurare* = 'swear to one's *bona fides*,' ib. 3, Rosc. Am. 55, and Landgraf's note.

iniustis vindiciis ac sacramentis: *vindiciae* = 'claims,' cf. Liv. iii. 45. 11 si huius *vindiciis* cesserit, Fest. p. 376 and Nettleship, p. 608. *Sacramentis* = 'deposits.' The *actio sacramenti*, so called because the deposit of the losing party went to the state, and '*consumebatur in rebus divinis*,' survived at the Ciceronian period in the court of the *centum viri*, who decided whether a *sacramentum* was *iustum* or *nec iustum* [Caecin. 97, Dom. 78]. Cicero's meaning here is that Clodius, instead of going before the *centumviri*, seized property by force. *Causae centumvirales* theoretically embraced all disputes connected with real property (de Orat. i. 173–175); but practically—apart from cases of *libertas*, e.g. Caecin. l. c.—were generally concerning inheritances, *c. hereditariae* [Momms. iii. 372]. We know from other sources that by going over to the plebs, and thus changing his *gens*, Clodius forfeited the right to inherit from those *gentiles* who died intestate [de Inv. ii. 148, Verr. i. 115]: cf. Dom. 35 *iure . . . hereditatum relicto . . .* quas adoptiones, sicut alias innumerabiles, hereditates nominis pecuniae sacrorum secutae sunt, and Lehmann's ingenious defence of the reading given by the first hand in the Med. MS. Att. ii. 1. 5, qui Romae *tribunatum* peteret, cum in Sicilia *hereditatem* se petere dictitasset [Quaest. Tull. p. 20, and Tyrrell, ii. xvii]. I would conjecture that in such cases Clodius used force to obtain his 'rights,' instead of going before the courts, and that Cicero is here alluding to such conduct on his part.

5. **P. Varium**: the person referred to is not otherwise known. In a letter of 65 B.C. a P. Varius is mentioned as having defrauded the uncle of Atticus [Att. i. 1. 3]. If the variant *Varum* were read, the reference might be to P. Attius Varus, propraetor of Africa in the civil war. P. Quintilius Varus is also mentioned, Clu. 53, 'homo summa religione et summa auctoritate praeditus.'

7. **villas**: properly used of 'buildings,' apart from the land, c. g. Rosc. Com. 33 tum erat *ager* incultus *sine tecto*, nunc est cultissimus *cum optima villa*. Varro, who derives *villa* from *veho*, defines it as 'quo fructus convehebantur,' L. L. v. 35. Cf. Landgr. on Rosc. Am. 44.

8. **hortos**: = 'pleasure-gardens' or 'parks': *hortus* in sing. = 'garden,' [Krebs-Allg.]. For a description of such a 'park' cf. Middleton, ii. 242 sq.

Ianiculo et Alpibus: i. e. he wished to make all Italy his, from the north bank of the Tiber up to the Alps: for the construction cf. de Aere al. i. 4 *populi Rom. imperium non terrarum regionibus, sed caeli partibus terminavit.*

10. **splendido**: t. t. of an *eques* as distinguished from *amplissimus vir*, i.e.

in lacu Prilio venderet, repente lintribus in eam insulam materiem, calcem, caementa, harenam convexit dominoque trans ripam inspectante non dubitavit aedificium exstruere in alieno; qui huic T. Furfanio, cui viro, di immortales, (quid enim ego 75 de muliercula Scantia, quid de adulescente P. Aponio dicam?

1. Prilio P.: *Prelio* H; *Perelio* TE; *pretio* δ. 2. materiem PH: *materiam* TEδ. harenam Hs, Lambin. ed. 1: *arma* PTEσχ. 3. *exstruere aedificium* P. 4. huic: *hinc* E. cui: *quo* E. 5. Scantia TE: *Stantia* P; *Sanctia* Hs. P. Aponio, scripsi: *Papinio* P; *P. Apinio* Peyron; *Apinio* T; *Aponio* HEs.

a senator. Cf. Att. vii. 13 a. 3 is enim *splendor* est vestrum, ut eadem postulentur a vobis, quae ab *amplissimis* civibus.

1. **lacu Prilio**: sc. Lago di Castiglione: for its situation cf. Dennis, Cities and Cemeteries of Etruria, ii. 253. The spelling is uncertain. Plin. N. H. iii. 51 speaks of *amnes Prille*, while in the Itiner. Antonini it is three times mentioned as *lacus Aprilis*.

insulam: the repetition is necessary in order to prevent ambiguity.

2. **materiem**: for the form cf. § 35 *n.*, for the meaning, 'timber,' cf. Verr. i. 147 non *materies* ulla advecta est, and Vitruvius, ii. ch. ix. The *alnus* was the best wood for piles, and lasted for ever in marshy ground; e.g. the whole of Ravenna was built in this way. Clodius, when building on an island, would probably begin by sinking piles. Timber would also be required to form the 'long wooden box, into which the concrete was poured' [Middleton, i. p. 47].

caementa: = 'stone,' cf. Div. ii. 99 in latere aut in *caemento*, ex quibus urbs effecta est. Cicero, who, for an amateur, had a thorough knowledge of building, is here enumerating the materials used in concrete, *structura caementicia*; cf. Middleton, i. p. 44 sq., and Vitruvius, ii. ch. vii. The best kinds of stone were lapis Albanus, the modern *peperino*, and lap. Tibertinus, sc. travertine. In making concrete, broken lumps of these were mixed with lime.

calcem: = 'lime,' generally made by burning travertine; cf. Vitruv. ii. ch. v, where rules for its use are given.

harenam: the most important ingredient in a *caementicia structura*; cf. Vitruv. ii. ch. iv. in caementiciis structuris primum est de *harena* quaerendum. There were three varieties, *har. fossicia*, *de fluminibus*, and *marina*, the first being the best: 'si erit fossicia, tres *harenae* et una *calcis* infundantur, si autem fluviatica aut marina, duo *harenae* et una *calcis* coiciantur' [Vitruv. ii. ch. v, Pliny, N. H. xxxvi. 175]. By a metaphor drawn from this process, Caligula described the style of Seneca as *harenam sine calce* [Suet. Cal. 53]. The variant, *arma* (i) spoils the sense, since then the most important of Clodius' materials is omitted, and (ii) is difficult to explain. If taken literally it does not suit the madcap audacity of Clodius [Spengel, Philol. xxii. 98], while the sense of 'tools' assigned to it from, e.g. Aen. i. 177 *Cerealiaque arma*, or Mart. xiv. 36 is a mere figment. *Arma* may be a mistake for *arenā*, or else is an interpolation from *armis castrisque* supr. The kindly critic of my Anecdoton in Hermathena xviii remarked, 'we do not think that any future editor of the pro Milone will read *arma*.' I am glad to see that so good a judge as Dr. Reid has led the way by giving *harenam*.

3. **inspectante**; § 101 *n.*

in alieno: i. e. the property of another, so Off. ii. 83. *Alienum* as a subst. is frequently found, e.g. largiri *de.* or *ex alieno*. For this extended sense cf. Sall. Cat. v. 5 *alieni* appetens, sui profusus. The owner might well look on coolly, since what Clodius built would belong to him, as owner of the soil: cf. Dig. xli. i. 7. 12 si quis in alieno solo sua materia aedificaverit, illius fit aedificium, cuius et solum est [Wirz].

4. **cui viro**: cf. Phil. xiii. 29 *quos cives, quos viros!* Dom. 21, &c.

5. **Scantia**: the name occurs as that of a Vestal virgin, Tac. Ann. iv. 16.

P. Aponio: Ascon. 55 mentions a Cn. Aponius as one of the accusers of Saufeius under the Plotian law, who may have been a relative of the person here alluded to. Cicero throughout dwells upon the feuds of Clodius with those who are now endeavouring to avenge his memory, e.g. with Pompey, § 37, &c., with Antony, § 40, with his brother Appius infr. The name Aponius is not uncommon: the only Apinius who appears in the Dict. is Apinius Tiro, Tac. Hist. iii. 57.

quorum utrique mortem est minitatus, nisi sibi hortorum possessione cessissent), sed ausum esse T. Furfanio dicere, si sibi pecuniam, quantam posceret, non dedisset, mortuum se in domum eius illaturum, qua invidia huic esset tali viro conflagrandum ; qui Appium fratrem, hominem mihi coniunctum fidissima gratia, absentem de possessione fundi deiecit, qui parietem sic per vestibulum sororis instituit ducere, sic agere fundamenta, ut sororem non modo vestibulo privaret, sed omni aditu et lumine.

1. *minatus* H. 2. cessissent PHs : *cessisset* TE. ausum esse T., Richt. : *ausum esset* H ; *ausus esse* P ; *ausus esset* E ; *ausum esse* Tδ. Furfanio HEδ : *Furfanium* T ; *furio fanio* P. 3. posceret H : *poposcerat* rell. 4. qua : *quia* H. 8. lumine H : *limine* rell.

1. **minitatus** : *minari* and *minitari* frequently occur as variants, e. g. Cat. ii. 1, iv. 20. Merguet gives four other references for *mortem minitari*. In defence of *minari* it might be urged that a single threat would be enough for a 'weak woman,' and a stripling.

2. **cessissent** : 'the plur. is found in subordinate propositions, with reference to the individuals, which are denoted in the leading proposition by a collective word,' Madv. 215 a, obs. : cf. Fin. ii. 1 cum *uterque* me intueretur, seseque ad audiendum *significarent* paratos. I formerly —Anecd. pp. xli and 39—erroneously attributed *cessisset* to H.

ausum esse T. : for a discussion of the reading see p. xliv.

3. **posceret** : cf. Verr. iii. 25 ego tantum dem, quantum ille *poposcerit*? poscet omne, quantum exaravero : ib. 29 licentia permissa, ut tantum ab aratore, *quantum poposcisset*, auferret. The subjunctive makes the demand of Clodius more outrageous. He says, 'si mihi pecuniam, quantam poposcero, non dederis.' The indic. would limit the demand to a definite amount. Dr. Reid, who keeps the indic., remarks that the subjunctive would be more usual, but does not notice the reading of H.

mortuum : i. e. 'a corpse.' Nägelsb. § 28. 4 says that it is the only perf. pass. partic. which Cicero uses in the masc. as a substantive. Cf. Rep. ii. 61 L. Sestium, cuius in cubiculo ecfossum esse se praesente *mortuum* diceret.

4. **huic . . . tali** : so *hos tales viros*, Div. in Caec. 51 *hi tales viri*, Clu. 186, &c. Cicero also says *hic et talis*, e.g. Har. Resp. 7.

conflagrandum : a favourite metaphor, cf. § 12 *n.*

5. **mihi coniunctum** : he was reconciled to Cicero (cf. § 39 *n.*) through the mediation of Pompey [Quintil. ix. 3. 41], and as consul treated him with distinction. He was now absent in Cilicia. Cicero, who succeeded him there, made great efforts to keep up his friendship with him, though in confidential letters he speaks of his exactions in very plain terms—*monstra* quaedam *non hominis*, sed *ferae* nescio cuius *immanis* : Att. v. 16. 11. Appius has gone down to posterity as the only augur who took his art seriously, Div. i. 105. He was also a necromancer, ib. 132. He dedicated the first book of his work on augury to Cicero, Fam. ii. 13. 2.

6. **deiecit** : 'evicted,' t. t., cf. Caecin. ch. xxviii sq.

7. **sororis** : the famous *βοῶπις* [§ 73 *n.*], who is called '*Palatina* Medea' Cael. 18. Her husband, Metellus Celer, had a house on the Palatine, and she continued to live there after his death. Her house touched on one side that of Catulus [Cael. 59], while it seems from this passage that Clodius lived next to her on the other side. From Har. Resp. 33 ne quis meorum imprudens *introspicere* possit *tuam domum* . . . tollam altius tectum, &c., it would appear that Cicero was his neighbour. The great house of Scaurus, which Clodius bought in 53 [Ascon. 33], was also on the Palatine, while Caelius rented chambers in an *insula* belonging to Clodius in the same neighbourhood [Cael. 18].

8. **vestibulo** : i. e. the courtyard. Aul. Gell. xvi. 5 quotes C. Aelius Gallus [*circ.* 50 B.C.] as saying in his book *de signific. verb.* that *vestibulum* is, 'non in ipsis aedibus, neque partem aedium, sed *locum ante ianuam* domus *vacuum*, per quem a via aditus accessusque ad aedes

Quamquam haec quidem iam tolerabilia videbantur (etsi aequa- 28
biliter in rem publicam in privatos, in longinquos in propinquos, 76
in alienos in suos irruebat), sed nescio quo modo usu iam
obduruerat et percalluerat civitatis incredibilis patientia; quae
vero aderant iam et impendebant, quonam modo ea aut depel-
lere potuissetis aut ferre? Imperium ille si nactus esset—
omitto socios, exteras nationes, reges, tetrarchas; vota enim
faceretis, ut in eos se potius immitteret quam in vestras posses-
siones, vestra tecta, vestras pecunias; pecunias dico? a liberis,
me Dius Fidius, et a coniugibus vestris numquam ille effrenatas
suas libidines cohibuisset. Fingi putatis haec, quae patent, quae
nota sunt omnibus, quae tenentur, servorum exercitus illum in

1. iam: *tam* H. 3. usu iam H: *iam usu* Tδ; *om.* iam E, 'fort recte' Nohl. 8. inmitteret HE: *mitteret* Tδ. 9. *vestras pecunias, vestra tecta* TW. pecunias; pecunias Hs: *pecunias* TEσχ. a *om.* H. 11. *fungi putatis haec, quae patentur, haec* H.

est.' The charge made by Cicero is somewhat vague. Apparently Clodius interfered with or added to the *paries* between them without his sister's consent; cf. Top. 22 omnibus est ius parietem directum ad parietem communem adiungere, Dig. viii. 2. 8 parietem . . . alterutri vicinorum demoliendi et reficiendi ius non est.

lumine: I take this to mean that he interfered with her 'lights.' Similar behaviour is attributed to Clodius in dealing with another neighbour of his, Q. Seius, Dom. 115, a Q. Seio contendit, ut sibi domum venderet, cum ille id negaret primo se *luminibus eius esse obstructurum* minabatur. For *lumen* in the sing. in this sense cf. Dig. viii. 2. 15 si modo sic faciat ut *lumini* noceat, 17 nunc non luminibus officit, sed plus aequo *lumen* facit, 10 ita officere luminibus . . . ut non penitus *lumen* recludatur, Vitruv. vi. 9. 6 in eo loco *lumen* erit sine impeditione. The variant *limine* is read by all editors, who quote for it Caecin. 35 si non modo *limine* tectoque aedium tuarum, sed primo *aditu vestibulo*que prohibuerint, which is not really parallel, since in it *limen* is not coupled with *aditus*, but contrasted with it. The proper order is *limen, vestibulum, aditus* [sc. *a via*], the two latter terms being continually combined, e. g. Verr. ii. 160 in primo *aditu vestibulo*que, de Orat. ii. 320 aedibus . . . *vestibula et aditus* praeponere, Orator 50 *vestibula* . . . *aditus*que ad causam. I have not, however, found *aditus* and *limen* coupled.

2. **propinquos**: 'here substituted for *vicinos* for the sake of the similarity of the sound to that of *longinquos*. Elsewhere *propinqui* almost always means "relations"' [Reid].

4. **percalluerat**: the only reference given for the word in this sense, elsewhere it = 'know thoroughly': *oc*calluerat would give a Ciceronian assonance with *ob*dur. Cf. Att. ii. 18. 4 iam prorsus *occallui*.

7. **exteras**: the adjective is only used in connection with *gentes* and *nationes* in the speeches.

tetrarchas: Deiotarus, who was despoiled in favour of Brogitarus, § 73 *n.*, was tetrarch of Galatia.

9. **pecunias**: *pecunia* strictly denotes the whole estate, i. e. *familia* as well as money, *omnes res tam soli quam mobiles, et tam corpora quam iura* Dig. L. 16. 222; sometimes, however, it is distinguished from the *familia*, e. g. ad Herenn. i. 23 uti super *familia pecuniave* sua legaverit. So here it is contrasted with the *liberi* and *coniuges* [Wirz].

10. **effrenatas**: cf. § 53 *n.*

11. **haec, quae . . . quae . . . quae**: cf. Madv. Ep. Cr. p. 48 'in pronominis repetitione duo extrema membra nude adiici possunt: unum non solet.'

12. **servorum exercitus**: this may refer to freedmen, cf. § 87 and Ascon. ad loc., or else be taken literally. Elsewhere he attributes conservative instincts not

urbe conscripturum fuisse, per quos totam rem publicam resque privatas omnium possideret?

77 Quam ob rem, si cruentum gladium tenens clamaret T. Annius: 'Adeste, quaeso, atque audite, cives; P. Clodium interfeci; eius furores, quos nullis iam legibus, nullis iudiciis frenare poteramus, hoc ferro et hac dextera a cervicibus vestris reppuli, per me ut unum ius aequitas, leges libertas, pudor pudicitia maneret,' esset vero timendum, quonam modo id ferret civitas! Nunc enim quis est, qui non probet, qui non laudet, qui non unum post hominum memoriam T. Annium plurimum rei publicae profuisse, maxima laetitia populum Romanum, cunctam Italiam, nationes omnes adfecisse et dicat et sentiat? Non queo vetera illa populi Romani gaudia quanta fuerint iudicare; multas tamen iam summorum imperatorum clarissimas victorias aetas nostra vidit, quarum nulla neque tam diuturnam laetitiam
78 attulit nec tantam. Mandate hoc memoriae, iudices. Spero multa vos liberosque vestros in re publica bona esse visuros; in iis singulis ita semper existimabitis, vivo P. Clodio nihil eorum vos visuros fuisse. In spem maximam et, quem ad modum confido, verissimam sumus adducti, hunc ipsum annum, hoc summo viro consule, compressa hominum licentia, cupiditatibus confractis, legibus et iudiciis constitutis, salutarem civitati

7. *in civitate* add. H. ante *leges*, E post *leges*, Tδ ante *manerēt*: ego delevi. 8. *manerent* σs, Halm. 12. adfecisse et Hδ: *affecisset* E; *adfecisse* T. 15. laetitiam attulit H: *attulit laetitiam* rell. 17. in re p. bona Hδ: *in re p. multa bona* TW; *in re p. vestra bona* E. 18. iis, Garat.: *his* codd. 21. hoc H: *hoc ipso* rell. 22. confractis H: *fractis* rell.

only to the freedmen, but even to the slaves, e. g. Cat. iv. 16, 17 *servus* est nemo, qui modo tolerabili conditione sit servitutis . . . qui non haec stare cupiat. Nulli sunt inventi, qui non ipsum illum sellae atque operis et quaestus cotidiani locum salvum esse velint: Leg. iii. 25 quis enim non modo liber, sed *servus* libertate dignus fuit, cui nostra salus cara non esset? It is therefore probable that their anarchical tendencies are here exaggerated.

1. **conscripturum**: cf. § 25 *n.*

6. **cervicibus**: 'the plur. is always used by Cicero. Varro, L. L. viii. 14, says that the sing. was first employed by Hortensius in a poem. In Livy the sing. is used of one person, and the plur. of several. The sing. is the usual form in silver Latin, e. g. it is used exclusively by Quintil.' [Landgraf on Rosc. Am. 30].

8. **maneret**: I exclude *in civitate* as a gloss, probably introduced from the next line, *id ferret civitas*. Both in H and in E it is given in a place where it will not construe, while T as usual conceals the corruption. For the alliteration cf. § 9 *n.*; and for the sing. of the verb Off. iii. 28 qua sublata beneficentia, liberalitas, bonitas, iustitia funditus tollitur, Orat. Partit. 90, Dräger, § 102.

12. **non queo**: Cicero always uses this form of the 1st pers. sing., not *nequeo*.

16. **hoc**: sc. the reflection which follows.

20. **hunc ipsum annum, hoc . . . viro**: for the omission of *ipso* in the second clause cf. Clu. 130 *illo ipso* tempore, *illis* censoribus.

21. **compr. . . . confr. . . . const.**:

fore. Num quis igitur est tam demens, qui hoc P. Clodio vivo contingere potuisse arbit*re*tur? Quid? ea, quae tenetis privata atque vestra, dominante homine furioso quod ius perpetuae possessiones habere potuissent?

Non timeo, iudices, ne odio mearum inimicitiarum inflammatus **29** libentius haec in illum evomere videar quam verius. Etenim, si praecipuum esse debebat, tamen ita communis erat omnium ille hostis, ut in communi odio paene aequaliter versaretur odium meum. Non potest dici satis, ne cogitari quidem, quantum in illo sceleris, quantum exiti fuerit. Quin sic attendite, iudices. **79**

1. igitur est Hs (et h. in mg.): *est igitur* TE. 2. arbitretur, ed. Aldina: *arbitraretur* codd. 3. possessiones HTE: *possessionis* δ, edd. 5. *inimicitiarum mearum* Tδ. 6. etenim si TEσ: *etenim etsi* Hsχ; *etsi enim* Hirschfelder. 7. praecipuum: *praecipue meus* Richt. 9. ne: *nec* HE. 10. iudices: *nempe. de interitu P. Clodi* add. H.; *nempe haec est quaestio de interitu P. Clodi* rell.; manifestum glossema sustuli.

cf. Flacc. 73 manus quas *con*tudit, digitos quos *con*fregit, nervos quos *con*cidit. The repetition of *cum* in compounds was a favourite one in old Latin, e.g. the verse of Ennius, quoted ad Herenn. ii. 39 pacem *con*ciliant, *con*ferunt *con*cordiam, and Cicero is also very fond of it, e.g. Nat. D. ii. 19 *con*sentiens, *con*spirans, *con*tinuata cognatio, Div. i. 90 *con*gregantur, . . . *com*mentandi causa atque inter se *con*loquendi, ib. ii. 82 *con*veniens et *con*iuncta *con*stantia. Cf. Hellmuth, p. 127. Similar repetitions of other prepositions are not uncommon, e.g. Tusc. i. 71 nec *di*vidi nec *dis*cerpi nec *di*strahi, Imp. Pomp. 48 *ob*temperarint . . . *ob*edierint . . . *ob*secundarint, and supr. § 56 *n*. The omission of *con-* before *fractis* in most MSS. is due to the confusion of symbols, sc. ɔ (i.e. *con-*) with bꝰ (i.e. *-bus*), the passage being written *cupiditatibꝰ ɔfractis*.

3. **possessiones**: I keep this, the reading of all the best MSS., and take it as in apposition to *ea*. For the meaning of *possessio* cf. Fest. 241 *possessiones* appellantur agri publici privatique, and supr. § 76 *vestras possessiones*. So *emptio* = 'land purchased,' Fam. vii. 23. 2 and *aestimatio* = 'land taken at a valuation,' ib. ix. 18. 4. *Ius* = 'title,' cf. Phil. ii. 103 advolas in M. Varronis . . . fundum Casinatem. Quo *iure*? . . . eodem, inquies, quo in heredum L. Rubri. The answer to the question, '*quod ius . . . habuissent*,' would be, 'non habuissent *ius civile*,' cf. § 73 cui iam . . . nullum *civile ius*, nulli *possessionum* termini. All editors, from the editio princeps downwards, have given *possessionis*, the MSS. authority for which is practically *nil*. With this reading *ius perpet. -is* would mean 'title arising from unbroken tenure,' in the past. For the sense of *perpetuae* in this passage, i.e. 'undisturbed,' 'unbroken,' cf. *perpetua oratio, quaestio, accusatio*, &c.; so Dom. 142 universi senatus *perpetua auctoritas*, and Aen. vii. 176, viii. 183.

5. **odio mearum inimic.**: 'hatred arising from my enmity,' cf. Mur. 56. The plur. *inimicitiae* is always used by Cicero for *actual* enmity: *inimicitia* does not occur in the speeches, and was condemned by Caesar, Aul. Gell. xix. 8. 4. It is found Tusc. D. iv. 16, and 21, of enmity *in the abstract*. For similar plurals cf. Sull. 76, and infr. § 84.

6. **evomere**: cf. Phil. v. 20 in me absentem orationem . . . *evomuit*.

etenim si: this appears to be the favourite idiom in Cicero: *et*si in H is due to a repetition of *et* after *et*enim.

7. **praecipuum**: sc. *odium meum*. The correction proposed by Richter, sc. *praecipue meus*, is very ingenious. Cf. Dom. 18 hoc officio, quod fuit *praecipue meum*.

9. **ne . . . quidem**: for the corruption *nec . . . quidem* so common in MSS. see Madvig, Fin. Excurs. iii. and Reid, Ac. ii. 11.

10. **quin sic attendite, iudices. Fingite . . .**: cf. Rosc. Com. 37 *attende, quaeso, Piso*, Verr. iii. 104 *attendite, iudices, diligenter*. The phrase calls special attention to a fact, or argument: so here, 'imagine that Clodius is alive

Fingite animis (liberae enim sunt nostrae cogitationes et quae volunt, sic intuentur, ut ea cernamus, quae non videmus), fingite igitur cogitatione imaginem huius condicionis meae, si possimus efficere, Milonem ut absolvatis, sed ita, si P. Clodius revixerit—quid vultu extimuistis? quonam modo ille vos vivus adficeret, quos mortuus inani cogitatione percussit? Quid? si ipse Cn. Pompeius, qui ea virtute ac fortuna est, ut ea potuerit semper, quae nemo praeter illum, si is, inquam, potuisset aut quaestionem de morte P. Clodi ferre aut ipsum ab inferis excitare,

1. enim sunt HT: *sunt enim* Es. 2. cernamus quae non videmus H, 'lectionem optimo ex codice optimam' Garat.: *cernimus quae videmus* rell. 3. igitur *om.* E. 4. possimus H: *possim* Tδ; *possum* E. Milonem ut H: *ut Milonem* rell. sed: *et* H. 5. vultu Hδ: *vult'* E; *vultum* T. *vivos* HTE. 6. adficeret Hs: *affecerat* Tσχ; *efficeret* E. quos HTE: *qui* δ; *qui vos* Spengel. *mortuos* H. *perculsit* E. 8. aut . . . aut: *et . . . et* Bake. 9. ferre: *non ferre* Uppenkamp; *omittere* A. Eberhard.

again.' The words added in H, *nempe. de interitu P. Clodi*, are the most obvious of glosses from the margin: in the other MSS. they have been so disguised as to escape the vigilance of critics. This is the only instance in the speeches of *quin* with the imper. Krebs-Allg. say that the use is a conversational one.

1. **liberae . . . videmus**: 'our thoughts are free and gaze in imagination at what they wish, thus enabling us to see what we do *not* behold.' The topic, sc. the comparison of things which we do *not* see, with things which we do, is frequent in Cicero, e.g. Deiot. 40 id animo contemplare, quod oculis *non* potes: Fam. v. 17. 4 nec minus nostra sunt, quae *animo* complectimur, quam quae *oculis* intuemur. Quintil. ix. 2. 41, speaking of the imagination, says, mire tractat hoc Cicero *pro Milone*, quae facturus fuerit Clodius, *si praeturam invasisset* . . . In διατυπώσει verecundia apud priores fuit. Praeponebant enim talia; 'credite vos intueri': *ut Cicero*, 'haec, quae *non vidistis* oculis, animis *cernere* potestis.' The quotation is a loose one, even for Quintilian, but he is probably paraphrasing. It is, however, strongly in favour of the reading in H: sc. cernamus, quae *non* videmus. The vulgate *ut ea cernimus, quae videmus*, i.e. 'just as we see the things which we behold,' ignores the obvious reference to this passage in Quintilian's quotation, which Wirz, not very ingenuously, calls a *frag. incert.*, suppressing Quintilian's reference to the pro Milone, and also is a tautology. A great deal has been written upon the distinction between *videre* and *cernere*: the former word appears to be the ordinary one for sight in general, while *cernere* = to 'see clearly' [Krebs-Allg.] Hence *cernere* is commonly used of the intellectual effort in vision, e. g. Tusc. D. i. 46 nos enim ne nunc quidem oculis *cernimus* ea, quae *videmus*, Div. i. 129 animi . . . *cernunt* ea, quae permixti cum corpore *videre* non possunt. But the distinction is not always observed since (i) *cerno* and *video* sometimes change places, e. g. Fam. vi. 3. 2 ego tam *video* animo, quam ea, quae oculis *cernimus*, and (ii) are sometimes coupled, e. g. de Or. iii. 161 quae *cernere et videre* non possumus, Scaur. 13 (see Athenaeum, Jan. 7. 93).

3. **possimus**: cf. § 105 for the variants.

4. **Milonem ut**: for the order cf. § 77 per me *ut* unum.

5. **vivus**: the reading of the best MSS. *vivos* probably represents an ancient spelling. Brambach, p. 92, says 'under the empire *vivos, vius, vivus* were all in use, occurring in one inscription.' Probus remarks, '*-vus* vel *-vos* secundae sunt declinationis . . . *cervus* vel *cervos*.' So *mortuos* [as here H] *mortus*, and *mortuus*. [Dr. Reid prints *vivos*.]

8, 9. **aut . . . aut**: sc. if he had been able to choose between ordering an enquiry, and raising him from the dead. *Potuisset* really only applies to the latter alternative, since superhuman qualities were not necessary for the first. Similar inaccuracies are common, e. g. § 100 *aut*

utrum putatis potius facturum fuisse? Etiam si propter amicitiam vellet illum [ab inferis] evocare, propter rem publicam non fecisset. Eius igitur mortis sedetis ultores, cuius vitam si putetis per vos restitui posse, nolitis, et de eius nece lata quaestio est, qui si lege eadem reviviscere posset, ista lex numquam lata esset. Huius ergo interfector si esset, in confitendo ab iisne poenam timeret, quos liberavisset? Graeci homines deorum honores tribuunt iis viris, qui tyrannos necaverunt (quae ego vidi Athenis, quae in aliis urbibus Graeciae! quas res divinas talibus institutas viris, quos cantus, quae carmina! prope ad immortalitatis et religionem et memoriam consecrantur); vos tanti conservatorem populi, tanti sceleris ultorem non modo honoribus nullis adficietis, sed etiam ad supplicium rapi patiemini? Confiteretur, confiteretur, inquam, si fecisset, et magno animo et libenter, se fecisse libertatis omnium causa, quod esset non confitendum

1. potius *del.* Bake. fuisse: *esse* H. Etiam . . . fecisset *del.* A. H. Christ. 2. illum . . . evocare *del.* Bake. *ab inferis* seclusi. evocare HWs: *avocare* TEσ. 4. nolitis Hδ: Quintil. v. 14. 2; *nolletis* TE. Cassiodori cod. A. p. 499. 5. ista lex numquam lata H: *lata lex numquam* rell. 6. iisne, edd.: *hisne* TE; *his* Hs. 9. in aliis Hsχ: *aliis in* TEσ. 10. immortalitatis HE: *immortalitatem* Tδ. 14. libenter TEδ: *libente* H, fort. *libenti*. se fecisse H: *fecisse se* rell. 15. esset H: *esset ei* TE.

. . . augeatis *aut* . . . videatis. The passage was first suspected by Bake, whose surgery is somewhat violent. Recently there has been a recrudescence of unnecessary conjecture.

2. **[ab inferis] evocare**: the words *ab inferis* seem unnecessary after *ab inferis excit.* in the previous sentence, and I have bracketed them. Larger excisions have been proposed by some critics. *Evocare* is used in the same sense Sest. 130 ab inferis *evocasset*, cf. Plin. N. H. xxx. 6 inferorum *evocatio*. The variant *avocare*, sc. 'call *away from*,' gives an inferior sense. The testimony of the Werdensis is here important as showing that TE diverge from the common archetype. For the topic introduced see Orator 85.

3, 4. **putetis . . . nolitis**: for the construction see Madvig 347 b. obs. 1, and cf. the line of Ennius, 'nam si *curent*, bene bonis *sit*, male malis, *quod nunc abest*' Nat. D. iii. 79.

5. **ista**: sc. the law under which you act.

6. **interfector**: i. e. *dolo malo*, and so a murderer.

7. **Graeci homines**: cf. § 18 *n.*

8. **Athenis**: sc. to Harmodius and Aristogeiton. Cf. Dem. Fals. Leg. 280 Ἁρμοδίου καὶ Ἀριστογείτονος . . . οὓς . . . ἐν ἅπασι τοῖς ἱεροῖς ἐπὶ ταῖς θυσίαις σπονδῶν καὶ κρατήρων κοινωνοὺς πεποίησθε καὶ ᾄδετε καὶ τιμᾶτε ἐξ ἴσου τοῖς ἥρωσι καὶ τοῖς θεοῖς.

10. **cantus . . . carmina**: 'melodies and songs,' cf. de Or. ii. 34, Tusc. D. iv. 3. *Cantus* refers chiefly to the tune, *carmen* to the words. Halm, who is followed by several editors, supposes that *cantus* here = 'hymns,' and *carmina* 'poems of any kind.' The best known of these is the celebrated σκόλιον of Callistratus: ἐν μύρτου κλαδὶ τὸ ξίφος φορήσω.

13. **ad supplic. rapi**: cf. Verr. i. 7 *rapiunt* eum *ad supplicium* di patrii, and § 5 *n.*

14. **libenter**: cf. Rep. ii. 4 aequo animo illi *libenter*que parerent: Att. xii. 4. 1 non modo *libenter* sed etiam aequo animo. A converse corruption to that in H. is found Rep. i. 14 *libente* me, where the palimpsest gives *libenter* against the sense. *Libenti* would be the correct form, if the adjective were used: cf. Att. ii. 4. 2, Har. Resp. 11, &c.

15. **esset**: sc. to any one, e. g. Ahala, Nasica, and other tyrannicides: *esset ei* = 'to Milo,' which restricts the sense.

30 modo, sed etiam vere praedicandum. Etenim si id non negat,
81 ex quo nihil petit nisi ut ignoscatur, dubitaret id fateri, ex quo etiam praemia laudis essent petenda? (nisi vero gratius putat esse vobis, sui se capitis quam vestri defensorem fuisse); cum praesertim in tali confessione, si grati esse velletis, honores adse- 5
queretur amplissimos, sin factum vobis non probaretur (quamquam qui poterat salus sua cuiquam non probari?), sed tamen, si minus fortissimi viri virtus civibus grata cecidisset, magno animo constantique cederet ex ingrata civitate. Nam quid esset ingratius quam laetari ceteros, lugere eum solum, propter 10
82 quem ceteri laetarentur? Quamquam hoc animo semper fuimus omnes in patriae proditoribus opprimendis, ut, quoniam futura esset nostra gloria, periculum quoque et invidiam nostram putaremus. Nam quae mihi tribuenda ipsi laus esset, cum

1. sed etiam vere H: *verum etiam vere* Lambin.; *verum etiam* TE. id Hδ: *is* TE. 2. ex quo: *et quod* H. *quod* ante *dubit.* add. H. 4. vestri H: *vestri ordinis* rell. cum . . . amplissimos *post* petenda l. 3 *transposuit Heerwagen.* 5. in tali H: *in ea* rell. 6. sin Hs: *si* TEσ. non *om.* H. 10. quam: *potius quam* H. 11. fuimus omnes H: *omnes fuimus* rell. 12. futura esset nostra H: *nostra futura esset* rell. 14. tribuenda ipsi, scripsi: *tribuenda ipsa* H; *ipsi trib.* TE. laus: *salus* T.

1. **sed etiam vere**: *vere* = iure, cf. Tusc. D. i. 83 *vere* et *iure* possum, infr. § 82, Sest. 8, &c. The reading of Lambinus, *verum etiam vere*, is one for which I have found no MSS. authority, and probably is a conjecture of that masterful scholar. I am not sure, however, that he is not right. If so H has retained *vere*, but substituted *sed* for *verum* [cf. § 3 *cr. n.*], while TE omit *vere*, but keep *verum*. For similar alliterations cf. de Invent. i. 84 *verum* si *vere*tur, ii. 55 *verum* etiam *ver*borum.

praedicandum: cf. Tusc. D. v. 43 quod autem laetabile, id *praedicandum* et *prae se ferendum*, and § 52 *n.* In Cato M. 31 the first hand in L gives *vere praedicans* de se, of which Müller says '*fort. recte.*' [*vera* edd.]. This reading there, and that of H here, corroborate each other.

3. **praemia laudis**: sc. rewards *for* his merits, cf. Cat. iii. 26 *praemium virtutis*; or less probably the genitive is epexegetical, sc. 'meed of praise.'

4. **vestri**: sc. *capitis*. The addition *ordinis* found in all MSS. except H, proceeds from a person, who thought that there was one *ordo iudicum*. The jurors belonged to three *ordines*, cf. § 95 *vestrorum ordinum*.

5. **in**: cf. Rosc. Am. 95 qua *in* re nihil aliud *adsequeris*.

8. **grata . . . ingrata**: sc. 'welcome' . . . 'thankless.' The word is used in two meanings, cf. § 83 *n.*

10. **ingratius**: the addition *potius* found in H might be defended on the analogy of, e. g. de Or. ii. 300 cum quidem ei fuerit *optabilius* oblivisci posse *potius* quam meminisse. Hellmuth [p. 166] quotes Pis. 33 quaevis fuga *potius* quam ulla provincia esset *optatior*, but here TV omit *potius*. *Potius malle* is found Div. in Caec. 21, *prius malle* Quinct. 9, and *potius praestare* Pis. 15. Instances from later authors are given by Wölfflin, Archiv, 1884, p. 101, who notes the similar use of *minus*, e. g. *minus altior* Ov. Fast. i. 526. Here I cannot but think the immediate juxtaposition of *potius* and the comparative harsh. For the intrusion of the word cf. Pis. l. c. and Lig. 5 Uticae *quam* Romae . . . esse . . . *maluisset*, where several dett. insert *potius* before *quam*. For the literature upon the subject see Madv. 307, obs. I: RH. 836, and *n.* 404, Reid on Ac. i. 45.

13, 14. **nostra . . . ipsi**: in both cases the order given to the words by H seems more emphatic.

invidiam: for Cicero's unpopularity

tantum in consulatu meo pro vobis ac liberis vestris ausus essem, si id, quod conabar, sine maximis dimicationibus meis me esse ausurum arbitrarer? Quae mulier interficere sceleratum ac perniciosum civem non auderet, si periculum non timeret? Proposita invidia, morte, poena qui nihilo segnius rem publicam defendit, is vir vere putandus est. Populi grati est praemiis adficere bene meritos de re publica cives, viri fortis ne suppliciis quidem moveri, ut fortiter fecisse paeniteat. Quam ob rem 83
uteretur eadem confessione T. Annius, qua Ahala, qua Nasica, qua Opimius, qua Marius, qua nosmet ipsi, et si grata res publica esset, laetaretur, si ingrata, tamen in gravi fortuna conscientia sua niteretur.

Sed huius benefici gratiam, iudices, Fortuna populi Romani et vestra felicitas et di immortales sibi deberi putant. Nec vero quisquam aliter arbitrari potest, nisi qui nullam vim esse ducit numenque divinum, quem neque imperi nostri magnitudo neque sol ille nec caeli signorumque motus nec vicissitudines rerum atque ordines movent neque, id quod maximum est, maiorum

1. meo *om.* H. 2. quod : *cum* E. dimicationibus : *cogitationibus.* H. 3. interficere, *hoc loco* HE : *post* civem T ; *eodem loco* occidere δ. 7. cives *om.* H. viri *om.* H. 8. ut *om.* T. 10. res publica : *res* H. 13. Fortuna : *fortuna* edd. ; *om.* H. 16. numenque H : *nullumve* rell. 18. maiorum nostrorum Hs : *maiorum* TEσχ.

with the masses at Rome cf. Att. i. 16. 1, 11, &c.

1. **meo**: cf. Rab. Perd. 10 *me* in consulatu *meo*. Cicero delights to dwell upon '*my* consulship,' as the reff. in Merguet show. Sometimes he omits *meus*, e. g. Fam. v. 2. 8 *me* in consulatu.

2. **quod**: the variant *cum* is plausible, sc. 'at the time *when* I acted,' but cf. § 53 *n.*

dimicationibus: 'risks,' so § 100 *dimicatio capitis* = 'risk of losing one's caput,' cf. Liv. ii. 12. 10 ut in singulas horas *capite dimices* tuo; Fam. i. 7. 5 ut ad certam laudem adhortor, ita a *dimicatione* deterreo. The word is often joined with *discrimen*, e. g. Sest. 1, &c.

10. **res p.**: I retain the ordinary reading, cf. supr. *populi grati*. *Res* by itself would yield a good sense. *Gratus* is used with equal frequency in the senses of 'thankful,' and 'pleasing to': *ingratus* however more commonly means 'thankless,' than 'not pleasing to.' For the latter sense cf. Fam. v. 5. 3 : vii. 27. 2. From a textual point of view the insertion and omission of *p.* after *res* are equally simple. For corruptions of *res p.* cf. § 65 *n.*

13. **Fortuna populi Romani**: *Fortuna* here is personified and should be spelt with a capital : cf. Ovid, Fast. v. 729 nec te praetereo, populi Fortuna potentis Publica, cui templum luce sequente datum ; cf. §§ 69. 87 *n.*

14. **nec vero** : for the *locus communis* here introduced cf. Quintil. v. 7. 35 tractatum generalem . . . *regaturne providentia mundus.*

16. **numenque** : *-que* = 'or in fine,' 'or altogether' is added to the more comprehensive term, see RH. 198 : and cf. Leg. ii. 16 in caelo mundo*que*. The disjunctive *-ve* separates the two ideas, e. g. Phil. v. 13 num leges nostras, moresve novit?

17. **sol ille**: δεικτικῶς, 'the sun above,' cf. *Iuppiter ille.*

caeli . . . motus : 'the sky itself as often is supposed to move, cf. Nat. D. ii. 97 tam certos caeli motus' [Colson].

18. **maiorum nostrorum** : the possessive pronoun gives fulness and emphasis to the clause. Krebs-Allg. distinguish

nostrorum sapientia, qui sacra, qui caerimonias, qui auspicia et
31 ipsi sanctissime coluerunt et nobis suis posteris prodiderunt. Est,
84 est illa vis, profecto, neque in his corporibus atque in hac imbecillitate nostra inest quiddam, quod vigeat et sentiat, non inest in hoc tanto naturae tamque praeclaro motu; nisi forte idcirco non putant, quia non apparet nec cernitur, proinde quasi nostram ipsam mentem, qua sapimus, qua providemus, qua haec ipsa agimus ac dicimus, videre ac plane, qualis aut ubi sit, sentire possimus. Ea vis igitur, quae saepe incredibiles huic urbi felicitates atque opes attulit, illam perniciem exstinxit ac sustulit, cui primum mentem iniecit, ut vi irritare ferroque lacessere fortissimum virum auderet vincereturque ab eo, quem si vicisset,
85 habiturus esset impunitatem et licentiam sempiternam. Non est humano consilio, ne mediocri quidem, iudices, deorum immortalium cura res illa perfecta. Regiones mehercule ipsae, quae

2. est, est Hs : *et est* σχ ; *est* T ; *est igitur* E. 3. illa vis profecto H : *profecto illa vis* rell. 4. non HTE : *et non* δ. 5. tamque H, Lambin.: *tam* TEδ ; *et tam* Halm. 6. nostram ipsam : *nostram ipsi* E. F. Eberhard ; *nostram ipsorum* Weiske. 8. ac plane H : *aut plane* rell. 9. ea vis igitur H : *ea vis ipsa igitur* T ; *ea vis igitur ipsa* E ; *ea vis, ea est igitur* σχ. 10. illam : *ipsam* T. 15. regiones Hs, Gulielmius : *religiones* TEσχ. quae HE : *quae cum* Tσ ; *cum* sχ.

between *maiores nostri* and *nostri maiores*; the former phrase is used when attention is drawn to them, the latter when they are contrasted with those of other nations; e. g. Rosc. Am. 70 quanto *nostri maiores* sapientius, where they are compared with the Athenians. The climax here seems a curious one to a modern reader, but is characteristic of Roman pride: cf Leg. Agr. ii. 95, &c.

3. **profecto**: for the position cf. § 21 non fuit ea causa, iudices, *profecto*. As expressing a strong personal conviction, § 2 *n.*, *profecto* is generally put in the place of emphasis, i. e. at the beginning or end of the clause.

4. **non inest**: for the coordination cf. Leg. ii. 16 neminem . . . tam stulte arrogantem, ut in se rationem et mentem *putet* inesse, in caelo mundoque *non putet*, a very similar passage in point of thought. The addition of *et* before *non* in the dett. is very inelegant.

5. **tamque**: cf. Div. ii. 29 rerum natura tanta *tamque* praeclara. Tusc. D. v. 72 tot tam variis*que* virtutibus, ib. tot tantis*que* gaudiis, de Inv. ii. 86 tanta *et* tam perspicua audacia, N. D. ii. 92, Fin. iv. 29, &c. *Que* [sc. *q.*] has dropped out, except in H, before *p*. It was inserted by Lambinus, apparently from conjecture. Cf. Kühner, ii. § 152. 1.

6. **non putant**: sc. *inesse*. Similar ellipses are frequent, e. g. Att. v. 21. 5, multum te amo, quod respondisti M. Octavio te *non putare*, sc. me missurum esse.

8. **videre ac plane . . . sentire**: cf. Cat. i. 8 videam plane*que* sentiam, Dom. 100 video me plane *ac* sentio restitutum, de Or. i. 161 plane nosse *atque* vidisse, ib. 207 plane video *atque* sentio. *Ac* connects the two ideas, *aut* separates them, e. g. de Or. ii. 305 petulans *aut* plane insanus.

9. **igitur**: for the reading see p. xl : *ipsa* was probably introduced from *ipsam . . . ipsa*, in the previous sentence.

10. **felicitates**: a list of similar plurals is given by Dräg. § 7. They were especially affected by Cicero. *Felicitates* however occurs before him, in Ter. Eun. ii. 3. 34.

13. **habiturus**: sc. Clodius, to be supplied from *pernicies*, κατὰ σύνεσιν : cf. § 37 *sica . . . sui nominis*, &c.

15. **regiones**: sc. the *Albani tumuli atque luci*. Cicero mentions first the

illam beluam cadere viderunt, commosse se videntur et ius in illo suum retinuisse. Vos enim iam, Albani tumuli atque luci, vos, inquam, imploro atque testor, vosque, Albanorum obrutae arae, sacrorum populi Romani sociae et aequales, quas ille praeceps amentia caesis prostratisque sanctissimis lucis substructionum insanis molibus oppresserat; vestrae tum religiones viguerunt, vestra vis valuit, quam ille omni scelere polluerat; tuque ex tuo edito monte Latiari, sancte Iuppiter,

1. *commovisse* E. 3. testor H, Quintil. xi. 1. 34: *obtestor* TE. 6. oppresserat: *inpresserat* H. vestrae tum religiones H, Modius: *vestrae tum arae vestrae relig.* TEδ; *vestrae tum vestrae relig.* Gruter; *vestrae tum irae, vestrae relig.* Richter. 7. quam: *quas* Bake. 8. Latiari, scripsi: *Laciari* H; *latia rei* T; *Latiaret* W; *Latiaris* E; *Latialis* δ.

regio, and then the *religio loci*, in the next sentence. For a similar transition cf. Balb. 13, a passage closely resembling this. O nationes, urbes, &c. . . . testes Cn. Pompei non solum virtutis in bello sed etiam *religionis* in pace! vos denique, mutae *regiones*, imploro et sola terrarum ultimarum: vos, maria, portus, insulae, littoraque! *Regio* is similarly personified, Rab. Perd. 8, Planc. 22, cf. § 20 *n.* The alteration to *religiones* in TE was one which occurred naturally to a monastic copyist: thus Balb. l. c. for *regiones* the first hand in P gives *religiones*. So Verr. iv. 65 for *regio* (sc. animo), we have the following variants: *religio* P, *religio* H¹, *religioso* H²E. For such ecclesiastical interpolations I would refer to my note Anecd. p. xxiv. For the sense here attributed to *religiones*, sc. 'holy places,' editors refer to Nägelsb. § 65. The passages he quotes are Rab. Perd. 30, and Aen. ii. 151, neither of which is really to the point.

3. **testor**: 'call to witness,' sc. to the fact, that they rose up against Clodius: *obtestor* would = 'entreat,' or 'beseech,' cf. Liv. ii. 10. 3 obsistens *obtestans*que deum et hominum fidem *testabatur*, nequiquam eos fugere.

4. **obrutae**: Cicero implies that they had been destroyed by Clodius: more probably they had fallen into decay from the lapse of time.

sociae et aequales: the Gods and sacrifices of Alba were adopted by Rome after its destruction, the chief celebration being that of the feriae Latinae on the Alban mount in honour of Juppiter Latiaris, Momms. i. 41. The cult of Vesta was transferred from Alba to Rome, Middleton, i. 291. *Aequales* is used loosely, if the ordinary legend is followed. Wirz points out that Ennius makes Romulus the grandson of Aeneas, and knows nothing of the Alban dynasty, so possibly Cicero is thinking of another story.

6. **oppresserat**: the word seems more appropriate to express the idea of laying a heavy weight upon, than *impresserat*; the latter verb generally means to brand with, or mark with a stigma, e.g. Phil. ii. 58 flagitiorum . . . vestigiis . . . Italiam *impressit*, Balb. 13, &c.

vestrae tum: the addition *arae vestrae* cannot be defended, since he is already addressing *vos* . . . *arae*. The conjecture of Richter, *irae vestrae*, is extremely clever, but the omission of the words in H shows clearly that they are an interpolation due to a supra-lineal gloss upon *vestrae*, taken from *arae* supr.

8. **polluerat**: i.e. violaverat, cf. Verr. v. 187 *polluta et violata* sacra, Aen. iii. 61, v. 6, &c.

Latiari, sancte: the variants in the MSS. show clearly that the abl. should here be read. The nominative is due to a dittography of *s*, before *sancte*. With the ordinary reading *Latiaris* is awkwardly put before *sancte Iupp.* In the series of invocations, Verr. v. ch. lxxii, the name of the God is given immediately after *te*, or, if there is a local epithet, it is put afterwards, e.g. 186 *te*que, *sanctissima* mater *Idaea*. Cf. Dom. 144. *Latiaris* is generally used of Juppiter, e.g. Lucan, i. 198, but might equally well be applied to the mountain where he was worshipped; cf. Varro. L. L. v. 52 on *Latiaris collis*.

cuius ille lacus, nemora finesque saepe omni nefario stupro et scelere maculatat, aliquando ad eum poeniendum oculos aperuisti; vobis illae, vobis vestro in conspectu serae, sed iustae
86 tamen et debitae poenae solutae sunt. Nisi forte hoc etiam casu factum esse dicemus, ut ante ipsum sacrarium Bonae Deae, quod est in fundo T. Serti Galli, in primis honesti et ornati adulescentis, ante ipsam, inquam, Bonam Deam, cum proelium commisisset, primum illud vulnus acciperet, quo taeterrimam mortem obiret, ut non absolutus iudicio illo nefario videretur, sed ad hanc
32 insignem poenam reservatus. Nec vero non eadem ira deorum hanc eius satellitibus iniecit amentiam, ut sine imaginibus, sine cantu atque ludis, sine exsequiis, sine lamentis, sine laudationibus, sine funere, oblitus cruore et luto, spoliatus illius supremi diei celebritate, cui cedere inimici etiam solent, ambureretur abiectus. Non fuisse credo fas clarissimorum virorum formas illi taeterrimo parricidae aliquid decoris adferre, neque ullo in loco potius mortem eius lacerari, quam in quo esset vita damnata.

2. poeniendum T: *puniendum* rell. *aperuistis* H: 6. T. *om.* PH. Serti HTE: *Sergi* P; *Sexti δ*. 8. acciperet PH*s*: *acceperit* TE*σ*. 12. sine lamentis *om.* H. 14. ambureretur PH*δ*: *imbueretur* TE. 15. *etiam* ante *abiectus* add. T. plures dett. 16. decoris *om.* dett. (exc. h in mg. et *s*). 17. *in mortem* H. *iniquo esse vitam dampnati* H.

1. **lacus**: sc. Lago di Castello, and Lago di Nemi.

fines: =τεμένη, cf. Macrob. iii. 7. 6 animal sacrum . . . abigebant ad *fines* deorum, quibus sacrum esset.

5. **sacrarium**: cf. Ascon. 32.

6. **T. Serti**: I read with HTE, since this is more likely to be changed to *Sergi* than *vice versa*, cf. Verr. ii. 119, *Cn. Sertium*, where several dett. give *Cn. Sergium*.

in primis: 'Cicero does not use this phrase until after his return from Rhodes. In his earliest speeches he employed *cum primis* and *summe*, both of which are rare in his later writings. The first case of *in primis* is Rosc. Com. 9' [Landgraf on Rosc. Am. 13].

8. **vulnus**: as if the first wound had been fatal, cf. § 29 *n*.

acciperet: the impf. is necessary since *casu factum ut accip.* = *casu accepit*, see RH. n. 479. For the variant cf. § 9 *n*.

taeterrimam: Cicero dwells upon the horror of his death, since he is no longer afraid of prejudicing Milo thereby, as he was only the instrument of the divine vengeance.

10. **reservatus**: cf. Att. i. 16. 9 erras, Clodi, non te iudices urbi, sed carceri *reservarunt*.

11. **satellitibus**: in the speeches always in a bad sense, sc. = 'hanger on,' 'creature.' For the other sense of the word cf. Leg. i. 26 sensus tamquam *satellites* attribuit ac nuntios.

sine imaginibus, &c.: cf. § 33. For the topic see Leg. ii. 42 quorum scelere religiones tum prostratae sunt . . . sepultura et iustis exsequiarum caruerunt.

13. **funere**: generally taken to mean 'bier' by edd. who compare Suet. Dom. 15 evenit ut . . . deiecto *funere* semiustum cadaver discerperent canes. More probably it = 'funeral,' i. e. the burning of the body. Colson quotes Serv. on Aen. ii. 539 *funus* est iam *ardens* cadaver.

14. **celebritate**: 'solemn assemblage,' § 66 *n*.

15. **clariss. vir.**: for the ancient worthies of the Claudian house cf. Cael. 33, 34.

17. **mortem . . . lacerari**: 'mangled *in* death.' For the construction Krebs-Allg. compare *dolorem eius consolari*,

Dura, me Dius Fidius, mihi iam fortuna populi Romani 87
et crudelis videbatur, quae tot annos illum in hanc rem publicam
insultare pateretur. Polluerat stupro sanctissimas religiones,
senatus gravissima decreta perfregerat, pecunia se a iudicibus
palam redemerat, vexarat in tribunatu senatum, omnium ordi-
num consensu pro salute rei publicae gesta resciderat, me
patria expulerat, bona diripuerat, domum incenderat, liberos,
coniugem meam vexarat, Cn. Pompeio nefarium bellum indixerat,
magistratuum privatorumque caedes effecerat, domum mei fratris
incenderat, vastarat Etruriam, multos sedibus ac fortunis eiecerat;
instabat, urgebat; capere eius amentiam civitas, Italia, pro-
vinciae, regna non poterant; incidebantur iam domi leges, quae

1. mihi *hoc loco* PHE: *ante* me Tδ. fortuna, scripsi: *Fortuna* edd. 2. *in hac r. p.* P. 4. a PHs: *om.* TE σχ. 5. palam *ante* se H. vexarat P: *vexerat* H; *vexaverat* TEδ.

sc. comfort him *in* his grief. The contrast of *mors* and *vita* is a familiar one, e. g. Clu. 201 huius . . . *vita* ad luctum reservata, *mors* sepulcro patris privata esse videatur, Sest. 83 eius igitur *vitam* quisquam spoliandam ornamentis esse dicet, cuius *mortem* ornandam monumento sempiterno putaretis. The present passage is a bolder flight, but is founded on the same antithesis, and there is no need to compare with it passages where *mors* = 'corpse': an usage common in colloquial Latin, e. g. Plin. N. H. xiv. 119 vitis, quam iuxta hominis *mors* laqueo pependerit, and also found in poetry, e. g. Prop. ii. 13. 22. I cannot agree with Lehmann, who [Woch. f. kl. Phil. 92. 47] thinks that the corruption in H is due to conjecture—'eine Konjektur liegt vor, die . . . dadurch entstand, dass die konkrete Bedeutung von *mortem* nicht erfasst wurde.' A conjecture will generally construe!

1. **fortuna**: i. e. *sors*, or *condicio*, cf. Att. x. 4. 4 *fortuna . . . duriore* conflictati. The editors all give *Fortuna* and refer to the *Fortuna publica populi Romani*. She was however a Τύχη σώτειρα, cf. Leg. ii. 28. *Fortuna* sit vel Huius diei . . . vel *Respiciens ad opem ferendam*, and it does not seem a Roman idea to think of her as injuring her city. Such conduct would be more appropriate to *Mala Fortuna*, ib. and N. D. iii. 63. In Hor. Odes i. 35, the goddess in her general aspect is described, not in her relation to Rome. Cf. §§ 69. 83 *n.*

3. **polluerat, &c.**: the use of *homoioteleuton* in this sentence is remarkable. First come fourteen pluperfects, followed in turn by a series of imperfects. The repetition of the termination is meant to drive each point home to the listener. A similar sentence occurs Att. viii. 8. 1, where Cicero is cataloguing the offences of Pompey.

5. **redemerat**: cf. Att. i. 16. 11 rem manifestam illam *redemptam* esse *a* iudicibus confitentur.

7. **liberos . . . coniugem**: a similar charge is made Sest. 54 *vexabatur uxor mea, liberi ad necem quaerebantur*. Terentia took shelter with her half-sister, the Vestal Fabia, Fam. xiv. 2. 2. Cf. the circumstantial allegations made by Metellus Scipio against Milo, Ascon. 36.

8. **bellum**: cf. Att. ii. 1. 8 equites curiae *bellum*.

9. **effecerat**: cf. Phil. iii. 31 *effecit* strages, ib. ii. 109 facinora *effecit*. Elsewhere in the speeches Cicero says caedem *facere*. Dr. Reid remarks that *effecerat* is here used, not *fecerat*, 'since the deeds were not done by Clodius' own hand.'

domum mei fratris: on Nov. 3. 57; Att. iv. 3. 2.

10. **Etruriam**: so §§ 26, 50, 55, 74.

11. **capere**: cf. Aen. ix. 644 nec te Troia *capit*, Phil. ii. 114 gloriam . . . quae vix caelo *capi* posse videatur. This use is chiefly found in negative clauses.

12. **incidebantur**: he is so confident of passing them, that they are being engraved in advance: cf. *in aes incidi* Phil. i. 26. He does not like Antony carry his laws first, and draft them afterwards, ib. v. 7.

nos servis nostris addicerent; nihil erat cuiusquam, quod quidem
28 ille adamasset, quod non hoc anno suum fore putaret. Obstabat eius cogitationibus nemo praeter Milonem. Illum ipsum, qui poterat obstare, novo reditu in gratiam quasi devictum arbitrabatur; Caesaris potentiam suam esse dicebat; bonorum 5
33 animos in meo casu contempserat; Milo unus urgebat. Hic di immortales, ut supra dixi, mentem illi perdito ac furioso dederunt, ut huic faceret insidias. Aliter perire pestis illa non potuit; numquam illum res publica suo iure esset ulta. Senatus, credo, praetorem eum circumscripsisset. Ne cum 10 solebat quidem id facere, in privato eodem hoc aliquid profecerat.

1. *nos iam* Ascon. 4. poterat obstare HTEδ: *obstare poterat* P. quasi: *sibi* Lambin. devictum HTEσs: *devinctum* Pχω. 5. suam PHs: *suam potentiam* TEσ. *ducebat* Cruquius. 6. hic *om.* H. 9. *per illum* E. 11. solebat: *volebat* Bake.

1. **servis nostris**: sc. libertinis, see Ascon. ad loc., and de Aere al. Milonis, iv. 1. Colson, who thinks that Clodius had an extensive programme, suggests on § 89 that 'he is credited with a scheme for manumitting slaves under some conditions without the consent of their masters, and making himself their *patronus*' (cf. Froude, Caesar, p. 303). The passage which he quotes from Dio C. xxxix. 23 to show that Clodius wished the *slaves* from Cyprus to be called *Claudii* does not prove anything, since another proposal was to call them *Porcii* after Cato! I hold that as praetor Clodius would have little power, and that he had few proposals to make. Cicero continually harps upon the same string.

2. **adamasset**: 'took a fancy to' (Purser). Krebs-Allg. explain the word as meaning, 'conceive an affection for,' rather than 'love deeply.' Reid on Ac. ii. 9 says '*ad* has the same sense as *πρό* in *προμαθάνειν*, sc. learn by degrees.' With the exception of *adamare* Fin. i. 69, only the perf. and plupf. are used in classical Latin.

4. **novo reditu**: cf. § 21 *n.*

quasi devictum: I retain doubtfully the reading of the German MSS. Clodius looks on Pompey as 'conquered' by a trick, sc. the reconciliation. The metaphor agrees with the context, the expressions being derived from struggling with an antagonist, sc. *obstabat . . . obstare . . . potentiam . . . urgebat.* As the expression is a bold one, *quasi* is used to soften it according to the usual idiom. The choice seems to lie between this and reading *sibi devinctum* with Lambinus, i.e. under obligations to himself, cf. Fam. i. 7. 3 virum *tibi* tua praestanti in eum liberalitate *devinctum*; ib. 9. 21 ut ego eum *mihi devinctum* putarem. In the ordinary reading there is this difficulty, that, whether *devinct.* is translated 'bound to' or 'bound down,' *quasi* is equally unnecessary since the met. is a very well-worn one, e. g. Sest. 15 hunc . . . Cn. Pompeius omni cautione, foedere, exsecratione *devinxerat*; Fat. 20 mentem hominis voluntate libera spoliatam necessitate fati *devinciunt*. A large number of instances are to be found in Merguet, but in none is *quasi* used.

7. **supra**: sc. in § 84.

10. **circumscripsisset**: specially used of tribunes, when their veto was disregarded, Momms. Staatsr. iii. 1226. 3. Here it is used generally of action taken against other magistrates by the senate, e. g. censure, or suspension.

11. **solebat**: i. e. in the days when it had more power than at present.

privato: Asconius refers this to the time when Clodius was quaestor designatus, i. e. in 62 B. C., when he outraged the rites of the Bona Dea, and thinks the *sen. cons.* then passed, and the special *quaestio* decreed are here alluded to. As a matter of fact however, though the offence was committed in Dec. 62 (in the previous year the festival was kept on Dec. 4, Plut. Cic. 19), no notice was taken of it until 61, when Clodius must have become *quaestor*, an office which he would enter on Dec. 5 (Staatsrecht, i.

An consules in praetore coercendo fortes fuissent? Primum 89
Milone occiso habuisset suos consules; deinde quis in eo praetore consul fortis esset, per quem tribunum virtutem consularem crudelissime vexatam esse meminisset? Oppressisset omnia, possideret, teneret; lege nova servos nostros libertos suos effecisset; postremo, nisi eum di immortales in eam mentem impulissent, ut homo effeminatus fortissimum virum conaretur occidere, hodie rem publicam nullam haberetis. An ille praetor, 90
ille vero consul, si modo haec templa atque ipsa moenia stare eo vivo tam diu et consulatum eius exspectare potuissent, ille denique vivus mali nihil fecisset, cui mortuo unus ex suis

2. in *om.* H. 3. esset: *fuisset* H. 4. oppressisset *om.* Tδ. 5. lege nova: *quae est inventa apud eum cum reliquis legibus Clodianis,* add. codd.; del. Bake. effecisset H: *fecisset* rell., in T suos *post* fecisset. 8. an: *at* Tδ. 10. eius *om.* H. 11. cui mortuo unus; scripsi: *qui mortuo unus* H; *cui mortuus uno* E; *cum mortuus uno* T; *qui mortuo uno* χ; *qui mortuus uno* σs edd.

606). Cf. Har. Resp. 8 ducentis confixum *senatus consultis,* quae sunt omnia contra illum pro religionibus facta, ib. 43 *qua estura,* in qua deos hominesque . . . *senatus auctoritatem* . . . violavit. Cicero may have termed a quaestor *privatus,* cf. Verr. A. Pr. 37 *aedilis, hoc est, paulo amplius quam privatus,* Dig. L. 4. 18, 3. He may be speaking literally, in which case the reference is probably to the conduct of Clodius after his tribunate, and before his election as aedile.

1. **in**: cf. Verr. i. 3 si *fortes* fueritis *in* eo.

coercendo: the consul as a superior power could (*a*) tear his toga and break his curule chair, e.g. Dio C. 42. 23, (*b*) fine him, Liv. xlii. 9. 4, (*c*) consecrate his goods, e.g. Dom. 123 sqq., (*d*) imprison him, Suet. Caes. 17. Cf. Momms. Staatsr. i. pp. 153–161.

2. **suos consules**: sc. his creatures, cf. Att. iii. 23. 3 octo *nostri* tribuni, vii. 7. 4 nisi quid occulte Caesar per *suos* tribunos molitus erit.

3. **tribunum . . . consularem**: a very misleading argument. It does not follow that because as *tribune* he had been able to drive an *ex-consul* into exile, he would as *praetor* be able to defy the *maius imperium* of a sitting consul. Cicero uses the ambiguous term *consularis,* which may mean either 'of a consul,' or, 'of an ex-consul.' Cf. Ascon. in Cornel. 80.

5. **lege nova**: cf. § 87. I follow Bake in regarding *quae . . . Clodianis* as a scholium from the margin. It interrupts the rapid flow of short clauses, while the law has already been so frequently alluded to, that information how its contents became known is superfluous. The supposition that the insertion of the words is due to the fact that Cicero was writing after the event [Halm] is most improbable: cf. § 27 *n.* The addition probably comes from a commentator, who took *incidebantur iam domi leges* literally, and thought that this law had been discovered in the famous *librarium,* § 33.

effecisset: for the double accusative after *efficere* cf. Pis. 84 perpetuos defensores Macedoniae vexatores ac praedatores *effecisti,* Sull. 68 ut Catilinam consulem *efficeret.*

7. **homo . . . virum**: the usual contrast, e.g. Sest. 89 cervices tribunns pl. privato, praestantissimus *vir* profligatissimo *homini* daret?

8. **rem p. nullam**: a favourite phrase, e.g. Phil. iii. 5, &c.: cf. rem p. funditus amisimus Q. F. i. 2. 15, si esset *aliqua* forma reip. Fam. vii. 3. 4.

9. **consul**: he would have been eligible for the consulship in 49 B.C., after the legal interval of a *biennium* had expired. He would then have been an invaluable tool in the hands of Caesar.

10. **eius**: the genitive might be supplied from *eo vivo,* but the repetition of the pronoun is very Ciceronian. Cf. §§ 82, 98 *n.*

11. **cui mortuo unus**: I conceive *Sex. Clodio duce* to have been a marginal note, founded upon Ascon. 34 populus *duce Sex. Clodio* scriba corpus . . . intulit, and ib. 55 *Sex. Clodius, quo auctore* corpus

satellitibus curiam incenderit? Quo quid miserius, quid acerbius, quid luctuosius vidimus? templum sanctitatis, amplitudinis, mentis, consili publici, caput urbis, aram sociorum, portum omnium gentium, sedem ab universo populo concessam uni ordini, inflammari, exscindi, funestari, neque id fieri a multitudine imperita, quamquam esset miserum id ipsum, sed ab uno! Qui cum tantum ausus sit ustor pro mortuo, quid signifer pro vivo non esset ausurus? In curiam potissimum abiecit, ut eam

1. satellitibus: *Sex. Clodio duce* add. codd.; *Sex. Clodio* del. Madvig, ego *duce*. 2. vidimus? templum: *vidimus, templum* C. F. W. Müller; *Vidimus templum* Meyer. 3. urbis: *orbis* H. 5. exscindi, funestari: *excindi. funestari. excindi* H. 6. ab: *om.* H. 7. quid: *quod* E. 8. ausurus H: *ausus* rell.

. . . illatum fuit. In H the alien element is unmistakeable: it is recognizable in E, while T, *more suo,* digests the addition. That *Sex. Clodio* must be excluded was seen by Madvig, who says, 'it is not only superfluous, but spoils the sense, the contrast being between the chieftain and one of his followers, so that the proper name cannot be added to the general term' [Op. Ac. i. 154]. He thought the words a gloss to *duce.* If *duce* however remains, apart from the evidence afforded by the confusion in the MSS., the sense is strange. Clodius is said to have burnt the Curia, *uno ex suis satell. duce.* If we ask, whom the *satelles* led, the answer can only be, 'the ghost of Clodius.' The phrase is only applicable if he was *dux* to a crowd: cf. § 95 *multitudinem,* quae *P. Clodio duce* . . . imminebat. With the reading which I propose the antitheses are *ille* × *unus ex. s. sat., vivus* × *mortuo, mali nihil fecisset* × *curiam incenderit.* The emendation is accepted by Poynton. Colson erroneously terms it the *reading* of H.

2. **sanctitatis**: 'morality': '*sanctus* as an epithet is especially used of statesmen, who discharge the dictates of morality towards the state and society so far as it comes into contact with the state' [Seyffert, Lael. p. 280].

amplitudinis: the senate being *amplissimus ordo,* cf. § 4 *n.*

3. **consili publici**: cf. Cato M. 19 *summum consilium* of the senate: so Leg. Agr. ii. 88 si . . . *publicum* ex illa urbe *consilium* sustulissent, where it signifies the local senate of Capua. I cannot agree with Dr. Reid, who says that *cons. publ.* does not mean here 'the senate,' but is used as Sest. 43 sanguis nullo *publico consilio* profusus.

caput urbis: for the variant *orbis* see § 72 *n.* Possibly, however, *orbis* ⟨*terrae*⟩ should be read, cf. Fam. iii. 8. 4 in *publico orbis terrae consilio,* id est, *in senatu,* Phil. vii. 19 *summo consilio orbis terrae.*

aram . . . portum: cf. Verr. v. 126 hic *portus,* haec arx, haec *ara* sociorum, Caecin. 100 exsilium . . . est perfugium *portus*que supplici . . . confugiunt quasi ad *aram,* in exsilium.

4. **uni**: Rau objects to this that it would be invidious to speak of the Curia as the peculiar possession of *one* privileged order. Cicero, however, uses the word without attaching special meaning to it, as yielding his favourite antithesis of *unus* and *universus,* e.g. Sest. 27, 33, 122, 128, &c. Cf. § 34 *n.*

5. **inflammari**: cf. the line of Ennius *haec omnia vidi inflammari* Sest. 121. **exscindi**: I somewhat doubt the genuineness of this word: the corruption in H seems to point to its having originally been a supra-lineal addition.

funestari: sc. by the corpse of Clodius: cf. Rab. Perd. 11 *funestari* contionem contagione carnificis veto.

6. **ab uno**: Cicero here attributes the deed to Sextus alone, not as Asconius, to the multitude led by him. This is a strong argument against the words *Sex. Clodio duce* supr.

7. **ustor**: a slave belonging to the libitinarius, cf. *sordidus* ustor, Lucan, viii. 738, *semirasus* u., Catull. lix. 5 [Wirz].

signifer: cf. Att. ii. 1. 7 te *signifero* ac principe, Planc. 74 causae nostrae duces et quasi *signiferi,* Ascon. 33 *antesignanus* servorum.

8. **ausurus**: the fut. partic. is used as an antithesis to the past, *ausus.* 'He had done so much in the past, what would he not have been likely to do in the future?'

mortuus incenderet, quam vivus everterat. Et sunt qui de via 91
Appia querantur, taceant de curia, et qui ab eo spirante forum putent potuisse defendi, cuius non restiterit cadaveri curia! Excitate, excitate ipsum, si potestis, ab inferis; frangetis impetum vivi, cuius vix sustinetis furias insepulti? nisi vero sustinuistis eos, qui cum facibus ad curiam concurrerunt, cum fascibus

1. *sed sunt* E. 3. cadaveri Hδ: *cadaver in* TE. 4. ab inferis Hs, corr. in h: *a mortuis* TEσχ. 5. sustinetis . . . vero *om.* H. 6. concurrerunt $\sigma\chi^3$, Madvig: *cucurrerunt* HTEsχ. cum fascibus ad Castoris, Lambin.: *cum facibus ad Castoris* HTE; *cum falcibus ac rastris* δ; *cum falcibus ad Castoris* edd.

2. **ab eo . . . defendi**: cf. § 102 *a* quibus (sc. *tueri*,) non potuisse?

4. **ab inferis**: cf. Orat. 85 *ab inferis* mortuos *excitabit*, Brut. 322 *ab inferis* . . . testes *excitaret*, and supr. § 79. *A mortuis* is so obvious a gloss, that I marvel how recent editors can go on printing it.

5. **insepulti**: cf. Phil. i. 5 *insepultam sepulturam*.

6. **concurrerunt**: the compound verb seems required by Ciceronian usage, cf. Verr. ii. 47 tantus in curia clamor, . . . ut populus *concurreret*, Rab. Post. 18 *concurrendum* ad curiam putaretis, Att. iv. 1. 6 homines ad theatrum primo, deinde ad senatum *concurrissent*. Cicero generally uses *curro* of a single person, e.g. Phil. ii. 50 ad Caesarem *cucurristi*: cf. however Verr. v. 92 *curritur* ad praetorium, where probably *concurritur* [sc. *ɔcurr.*] should be read. The corruption is a very simple one: cf. p. xl. on § 39. It is a singular fact that *curro* is seldom used in the speeches. Merguet gives only 8 cases besides this, while *concurro* occurs 23 times. This is probably due to the natural tendency of an orator to use forcible words: he thus prefers to speak of the 'rush' of a crowd than of an individual running. Cf. Landgraf's suggestive note on Rosc. Am. 23.

cum fascibus ad Castoris: I was led to make this correction by a comparison of two other passages, where the same *annominatio* is found, Sen. 7 cum ferro et *facibus* homines tota urbe volitantes . . . consulis *fasces* fractos, and Quir. 14 ad magistratuum domos cum ferro ac *facibus* iretur, consulis *fasces* frangerentur. Cf. also Att. viii. 15. 1 quod tibi puto esse *faciendum*; et ignoras, Domitius cum *fascibus*ne sit, quod cum scies, *facies* ut sciamus. Cicero is describing the behaviour of the rioters who went about carrying the *fasces*, cf. Ascon. 34 *fasces ex luco Libitinae raptos attulit ad domum Scipionis et Hypsaei*, &c. The new detail which he gives is that the *fasces* were taken to the temple of Castor, this probably being the scene of a *contio*, addressed by a demagogue from the steps. I afterwards found that the correction is an old one, being printed by Lambinus without comment, and accepted by Gulielmius. Abram [Paris 1631] explains the passage and refers to Asconius. He does not, however, mention the other instances of the *annominatio* given above. Since his time no editor, so far as I am aware, has accepted the correction. The corruption may be illustrated by Sull. 17 misit cornua, tubas, *fasces*, where Halm notes '*fasces* VS, *falces* TB, *faces* codd. alii,' and Cat. ii. 13, where for *fasces* eight of Halm's MSS. give *faces*. The MSS. reading *facibus* is indefensible. It could only mean that the rioters tried to burn the temple of Castor. As Graevius remarks, 'aedes Castoris incensa non fuit, ne tentatum quidem incendium, nam, ut de curia, traditum haberemus,' which seems true, considering the circumstantiality of the accounts given by our authorities. Modern editors explain the passage in a very improbable manner. (i) They accept *falcibus* from the dett., the value of which may be judged from the fact that they also give *ac rastris* for *ad Castoris*! (ii) Since Clodius during his tribunate barricaded himself within this temple, pulling up the steps (Sest. 85, Pis. 11, Dom. 54, 110, Har. Resp. 28, &c.), it is supposed that his disciples now wish to imitate their master. (iii) In order to pull up the steps they are supposed to have used *falces*. Since, however, 'sickles' or 'hooks' are not suited for such a task, reference is made to the *falces murales* used to pull down the walls of a besieged town, Caes. B. G. iii. 14. 5. These, however, were ponderous engines, 'with a massive iron head in the

ad Castoris, cum gladiis toto foro volita*ve*runt. Caedi vidistis populum Romanum, contionem gladiis disturbari, cum audiretur silentio M. Caelius tr. pl., vir et in re publica fortissimus, in suscepta causa firmissimus, et bonorum voluntati, auctoritati senatus deditus, et in hac Milonis sive invidia sive fortuna, singulari divina incredibili fide.

34 **92** Sed iam satis multa de causa, extra causam etiam nimis fortasse multa. Quid restat, nisi ut orem obtesterque vos, iudices, ut eam misericordiam tribuatis fortissimo viro, quam ipse non implorat, ego etiam repugnante hoc et imploro et exposco? Nolite, si in nostro omnium fletu nullam lacrimam

1. volita*ve*runt, Wüst: *volitarunt* codd. 3. in suscepta H: *et in susc.* rell. 4. auctoritati E: *atque auctor.* H; *et auctor.* Tδ. *deditissimus* Lambin. 6. *sive a singulari* E. incredibili H: *et incred.* rell.

shape of a sickle, affixed to the end of a strong pole or beam, which could be worked by the hand or by machinery, so as to mow, cut, or pull out' [Rich, Dict. Ant.] and it can hardly be supposed that the rioters rushed about with anything resembling them. This explanation then rests upon three improbabilities, but apart from this Cicero would hardly have chosen so obscure a way of saying, that they 'tried to barricade themselves inside the temple of Castor.'

1. **volita*ve*runt**: the tables drawn up by Wüst show that Cicero, in his selection of syncopated or unsyncopated forms, was guided by a wish to avoid certain rhythms: cf. § 56 *n.* Here *vŏlĭtārunt* would produce the end of an hexameter, a universally condemned clausula [Quintil. ix. 4. 102]. In the only parallel case which occurs in the speeches examined by Wüst. Cat. i. 14, he would read *cumulavisti* for *cumulasti* [pp. 72, 73]. *Volitare* is a word of which Cicero is very fond. He uses it either to express rapid motion as here, or in the sense of to 'strut,' or 'flaunt about.' In this sense it is often used with *in foro* or *per forum*, e.g. Cat. ii. 5, Dom. 49, Font. 33. See Landgraf's excellent note upon Rosc. Am. 135.

3. **silentio**: i. e. there was nothing to provoke a riot. This is very different from the account in Appian.

3–6. **in suscepta . . . fide**: I emend the punctuation of this sentence by omitting *et* before *in susc.* (with H), before *auctor.* (with E), and before *incred.* (with H). This produces three clauses connected by *et*, while in each clause there are two divisions not so connected. *Fortuna* balances *invidia*, while the three adjectives go with *fide*. The ordinary method is to connect *singulari* with *fortuna*, since, if it were taken with the other two adjectives, *et* would be incorrectly used before the third, according to Madvig's canon; 434. 1 and § 4 *n.* This (i) spoils the *concinnitas*, since *invidia* is overbalanced by *fort. singulari*, and (ii) Ciceronian usage is in favour of taking *singul.* with *fide*. In the speeches *singularis fides* occurs six times: so also Fam. i. 7. 2 and Rep. iii. 27. The epithet is combined with *divinus*, e. g. Div. i. 53 *singulari* vir ingenio Aristoteles et paene *divino*, with *incredibilis*, e.g de Or. iii. 13 ob amorem in rem p. *incredibilia* et *singularia* pertulimus, while all three occur together, ib. i. 172 *incredibilis* et prope *singularis* et *divina* vis ingeni. For the asyndeton cf. Sest. 85, &c. No parallel is quoted by editors for *fortuna singularis*.

5. **deditus**: the intensive force of *de-* in composition enables the positive to follow the preceding superlatives.

8. **orem obtesterque**: '*oro* is always placed before *obtestor* or *obsecro*, since the longer word takes the second place' [Wölfflin, Allit. p. 18].

11. **exposco**: ἅπαξ λεγ. in Cicero, whose favourite form is *deposco*.

nostro omnium fletu: the object of the *epilogus* is above everything to excite tears. To do this the speaker must first weep himself. de Or. ii. 196. For the ridicule excited by Cicero's ready tears cf. Planc. 76.

adspexistis Milonis, si vultum semper eundem, si vocem, si orationem stabilem ac non mutatam videtis, hoc minus ei parcere; haud scio an multo etiam sit adiuvandus magis. Etenim si in gladiatoriis pugnis et in infimi generis hominum condicione atque fortuna timidos et supplices et ut vivere liceat obsecrantes etiam odisse solemus, fortes et animosos et se acriter ipsos morti offerentes servari cupimus, eorumque nos magis miseret, qui nostram misericordiam non requirunt, quam qui illam efflagitant, quanto hoc magis in fortissimis civibus facere debemus! Me 93 quidem, iudices, exanimant et interimunt hae voces Milonis, quas audio adsidue et quibus intersum cotidie. 'Valeant,' inquit 'valeant cives mei; sint incolumes, sint florentes, sint beati; stet haec urbs praeclara mihique patria carissima, quoquo modo erit merita de me; tranquilla re publica mei cives, quoniam mihi cum illis non licet, sine me ipsi, sed propter me tamen

1. *rationem* T. 3. etiam sit adiuv. HEδ: *etiam adiuv. sit* T; *sit etiam adiuv.* P. 4. in, Oxx. duo [λω]: om. PHTEδ. hominum PHs: *omnium* TEσχ. 5. et suppl. HTEδ: *atque suppl.* P. 6. et anim. HTEδ, Severianus, p. 368: *atque anim.* P. ipsos PHs, Severianus: ipsi TEσχ. 7. servari Hs, Severianus: *servare* PTEσχ. 9. civibus *om.* H. 11. intersum: *assum* sχ; *valeant, valeant, inquit, mei cives, valeant* H. 12. stet: *sit et* P. 13. praeclara: *cara* H. *merita de me erit* Tδ. 15. propter PH: *per* rell.

1. **semper eundem**: cf. § 95. Milo knew that his cause was hopeless. He had not scrupled to fall upon his knees before the jurors on behalf of Scaurus. Ascon. in Scaurian. 29.

3. **etiam**: the order assigned to this word in P does not seem so forcible as that given in the other MSS.

4. **in infimi**: it does not seem possible to dispense with *in*. Such cases of its omission as, e. g. Ac. i. 39 *alia in* parte animi cupiditatem, *alia* rationem collocarent, are very different. The corruption is a common one, e. g. Att. iv. 6. 3 ⟨*in*⟩ incipiendo refugi. For the bravery of gladiators cf. Tusc. D. ii. 41.

5. **et supplices**: the reading of P, *atque* suppl., seems due to a repetition of *atque* from the preceding line. In the next line, the agreement of Severianus with our MSS. in *et animosos* induces me to prefer this to *atque* animos. with P.

6. **ipsos**: 'of their own accord': *ipsi*, 'even to death,' a less forcible meaning. For the topic cf. Senec. Dial. ix. 11. 4 gladiatores invisos habemus, si omni modo vitam implorare cupiunt.

7. **servari**: the passive is the more idiomatic construction. For the variety in reading cf. § 57. Reid on Ac. ii. 42 remarks that 'it is the prevailing, though not universal custom, not only of Cicero, but also of the other classical prose-writers, to use the passive infinitive with verbs of desire, even where the active would stand and make sense, and where it would be naturally used by moderns: see Madv. Em. Liv. p. 44 *n.* ed. 2.'

11. **valeant . . . valeant**: cf. Apsines, p. 406 *πάθος ποιοῦσιν οἱ διπλασιασμοί*. Quintil. ix. 3. 29 says, that the repetition is more emphatic, if a word, [as here], intervenes, or a clause, as in Phil. ii. 64. The repetition of a word three times is rare, Volkmann, p. 398.

12. **incolumes**: even if he is himself *calamitosus*. For *florentes* cf. § 21 *n.* *Beati* = 'wealthy,' e. g. Att. i. 14. 1, Cat. ii. 20, &c. Cf. Phil. xiii. 33 te . . . *salvum, beatum, florentem* esse voluerunt, ib. xiv. 23 et *incolumis* et *florens*.

15. **sine me . . . propter me**: cf. Sest. 146 hunc exsulem *propter me sine me* videbunt.

ipsi: is explained by *sine me*, cf. the Greek *αὐτοί*. The idea of 'oneself' easily passes into that of 'by oneself,' i. e. 'alone.'

perfruantur; ego cedam atque abibo; si mihi bona re publica frui non licuerit, at carebo mala, et quam primum tetigero bene
94 moratam et liberam civitatem, in ea conquiescam. O frustra,' inquit, 'mei suscepti labores! o spes fallaces, cogitationes inanes meae! Ego cum tribunus pl. re publica oppressa me senatui dedissem, quem exstinctum acceperam, equitibus Romanis, quorum vires erant debiles, bonis viris, qui omnem auctoritatem Clodianis armis abiecerant, mihi umquam bonorum praesidium defuturum putarem? ego cum te' (mecum enim saepissime loquitur) 'patriae reddidissem, mihi putarem in patria non futurum locum? Ubi nunc senatus est, quem secuti sumus? ubi

1. bona re p. PH: *re p. bona* rell. 2. *primam* Ernesti. 3. moratam: *memoratam* T. O *om.* Quintil. vi. 1. 27. 4. mei HTE, Quintil.: *mihi* P. cogitationes H: *et cogit.* P; *O cogit.* TEδ, Quintil. inanes *om.* E. 5. *meas* Quintil. me *om.* H. 6. dedissem: *dedidissem* Garat. 9. defuturum: *futurum* T. putarem in patria non futurum P: *futurum in patria non put.* HE; *non fut. in p. putarem* Tδ.

1. **perfruantur . . . frui**: the simple verb denotes the modest share of Milo in the general well-being.

2. **primum**: this appears to be preferred to the ordinary idiom *primam*, in order to avoid the number of similar terminations. Wirz quotes Off. i. 22 non nobis *solum* nati sumus.

4. **mei suscepti**: the nomin. *mei* is echoed by *meae* at the end of the sentence. Recent editors prefer *mihi*, since the dat. of the pronoun is used with *susceptus* several times in Cicero, according to Dräger, Synt. Tac. § 50, eight times. He uses, however, the other constructions *meus susceptus*, e. g. Sest. 4 dolor hic *meus susceptus*, and *a me susceptus*, e. g. Cat. i. 27, naturally choosing in a particular passage the one which suits it best. Here *mei* is preferable, (i) as corresponding with *meae*, (ii) it calls attention to Milo, sc. '*my* toils,' while with the dat. the stress rests upon *frustra susc.*, (iii) the weight of evidence is in its favour. The reading of P is a plausible variant, but can hardly be quoted as an example where it 'Ciceronis verba servavit, ubi non modo codd. peccant, sed etiam Quintilianus' [Nohl, ed. 1. praef.]. For the construction of the dative pronoun with the passive verb see the summary of Tillmann's discussion in RH. n. 551.

cogitationes: the asyndeton seems more vigorous than the variants, *et* cog., or, *o* cog.

6. **dedissem**: Garatoni's conjecture *dedidissem* is in many ways attractive, cf. §§ 4, 91. The words are often confused, e. g. Imp. Pomp. 35 *dediderunt* HE, al. *dederunt*; ib. 46 *dediderunt* E; *dederunt* H. The comparison, however, of a large number of passages leads one to the conclusion that the words are practically interchangeable. Cf. Sest. 110 studio litterarum se subito *dedidit*, de Or. i. 2 artes, quibus a pueris *dediti* fuimus, ib. 57 his studiis mirifice *deditus*, with ib. 10 huic studio . . . penitus se *dedit*, Fam. iii. 10. 7 doctrina, cui me a pueritia *dedi*, Rab. Post. 7 senatum, cuius auctoritati te *dedisti*, Rosc. Am. 18 se rei familiari . . . *dedisset*. The passages where *dare* is used are too numerous to be regarded as corruptions.

exstinctum . . . debiles: cf. § 25 *n.*

8. **abiecerant**: a stronger word than *amiserant*, cf. Mur. 45 diffidit, *abiecit* hastas, Phil. viii. 12 tu arma *abicienda* censes. The *boni* had thrown away that *auctoritas*, which used to be their shield.

10. **putarem . . . futurum**: I cannot see anything to choose between the collocation of these words in P and HE, and so retain the ordinary reading. The agreement of E with H shows that T has diverged from the archetype.

11. **secuti sumus**: the watchword of the optimates, cf. Sest. 97.

equites Romani illi, illi,' inquit, 'tui? ubi studia municipiorum? ubi Italiae voces? ubi denique tua, M. Tulli, quae plurimis fuit auxilio, vox atque defensio? mihine ea soli, qui pro te totiens morti me optuli, nihil potest opitulari?' Nec vero haec, iudices, **35** **95** ut ego nunc, flens, sed hoc eodem illo loquitur vultu, quo videtis. Negat enim se, negat ingratis civibus fecisse quae fecerit, timidis et omnia pericula circumspicientibus non negat. Plebem et infimam multitudinem, quae P. Clodio duce fortunis vestris imminebat, eam, quo tutior esset vestra vita, suam se fecisse

1. illi illi: *illi* Pσ. 2. tua HTEδ: *tua illa* P. 3. atque PHE: *et* Tδ
4. optuli PHTχ: *obtuli* Eσs. 5. illo H: *om.* rell. 6. se HTEδ: om. P, qui deficit in verbo inseq.; *se* post *fecisse* inser. Bait. 7. pericula circumsp. HE: *circumspic. peric.* Tδ. 9. suam H: *om.* rell. fecisse: *effecisse* nescio quis apud Orellium.

1. **equites . . . munic.**: they were accustomed to rally round Cicero, the *municipalis eques*, Juv. viii. 238.

illi, illi, inquit: cf. Phil. xii. 7 *illi, illi, inquam*. The omission of the second *illi* in P probably accounts for the fact, that in this MS. *illa* is added in the next line after *tua*.

4. **optuli**: I adopt the spelling of the best MSS. since it produces a characteristic assonance; cf. on § 7, and Ter. Adelph. 322 *op*pido *op*portune te *op*tulisti mi obviam, Catull. cvi. 1 *op*tantique *op*tigit unquam. So Fam. ii. 19. 1 *op*tatissimum . . . *op*tigisse, 2. *op*tatior *op*tingere [Mendelssohn], ib. ix. 17. 3 *op*tare *op*tima. In Planc. 102 *op*timus *op*testatur should be read. For the spelling cf. Quintil. i. 7. 7 cum dico '*op*tinuit' secundam *b* litteram ratio poscit,' aures magis audiunt *p*. Brambach says that 'in verbs PS and PT are in all cases the rule,' p. 247. A list of the passages in which *optuli* is given by the MSS. is to be found in Neue, ii. 817.

opitulari: 'the use of this verb is connected with Cicero by Seneca, Ep. xvii. 2 necdum scis . . . philosophia quem ad modum . . . ut *Ciceronis* utar verbo, *opituletur*. It was an archaic word, and occurs in Plautus and Terence. Its first appearance in prose is ad Herenn. iv. 53. Cicero gave it a temporary vogue. He refers to its etymology, Off. i. 49 ut quisque maxime *opis* indigeat, ita ei potissimum *opitulari*. It is very rare in silver Latin, and does not occur in Livy or Tacitus' [Landgraf on Rosc. Am. 27]. It will be noticed that Cicero puts his favourite word into the mouth of Milo.

5. **hoc eodem illo**: 'the same old look,' cf. Tusc. iii. 31 *hic* est enim *ille* vultus semper *idem*, quem dicitur Xanthippe praedicare solita in viro suo fuisse, Liv. ix. 8. 2 *eodem illo* vultu, quo sub iugum missus erat. For the two demonstratives cf. Reid on Ac. i. 2, who says that the second demonstrative comes in as explanatory of the first in a special sense, 'the famous,' 'the well-known,' e.g. Att. i. 18. 3 instat *hic* nunc *ille* annus egregius. The idiom was an archaic one: thus it occurs in an old form of prayer, Cato, R. R. 132 macte *hac illace* dape esto, and many of the passages where it is found are couched in the oracular style, or that of prayer, e.g. Aen. vii. 255, Tac. Ann. xiv. 22, Tibull. i. 3. 93, [RH. n. 378 *b*.]. *Illo* would naturally be struck out after *hoc*: cf. § 51 *n*. and *suam* infr.

7. **plebem . . . eam**: *plebem* is put in the front of the sentence, and taken up by *eam* after the intervening clause: cf. Verr. v. 18 *servos*, quos ipse . . . iudicavit, *eos* . . . liberavit, Phil. ii. 101 *Agrum* Campanum, qui . . . , *hunc* tu . . . dividebas.

9. **suam se fecisse**: cf. Ter. Adelph. v. 6. 10 *plebem* primulum facio *meam*, Ovid, Art. Am. ii. 259 Fac *plebem*, mihi crede, *tuam*, Fam. viii. 17. 2 equidem iam effeci, ut maxime *plebs*, et, qui antea *noster* fuit, populus *vester* esset, Brut. 224 *plebem tenebat*, Liv. iii. 14. 6 tractando *mansuefecerant plebem*. These instances show that the phrase was a recognized one in Roman electioneering: and with this reading the sense is simple. If *suam* is omitted, the difficult construction *eam . . . se fecisse . . . ut flecteret*, = *se flexisse*, is produced, the charms of which have found many admirers. As however Bake

commemorat, ut non modo virtute flecteret, sed etiam tribus suis patrimoniis deleniret; nec timet ne, cum plebem muneribus placarit, vos non conciliarit meritis in rem publicam singularibus. 96 Senatûs erga se benevolentiam temporibus his ipsis saepe esse perspectam, vestras vero et vestrorum ordinum occursationes, studia, sermones, quemcumque cursum fortunae coeperit secum se ablaturum esse dicit. Meminit etiam vocem sibi praeconis modo defuisse, quam minime desiderarit, populi vero cunctis suffragiis, quod unum cupierit, se consulem declaratum; nunc

2. deleniret HT, Ascon.: *deliniret* Eδ. 4. senatus *om.* H. esse: *a se* Bake. 6. fortunae coeperit, scripsi: *fortunae ceperit* H; *fortuna dederit* rell. secum se H: *om.* se TEδ, ante *secum* inser. Naugerius. 7. vocem sibi HE: *sibi vocem* Tδ.

and others remark, *effecisse* would be more regular in this connection. *Suam* was probably obelized as superfluous after *eam*. The lemma of Asconius is here defective, and so gives no help.

1. **tribus**: i. e. those of his father Papius, his father by adoption, T. Annius, and possibly that of his mother, *aliud enim quod fuerit non inveni*, says Asconius with some *naïveté*. Several editors think that the third fortune was that of Fausta. It does not however seem likely that Fausta's *dos* could be called a *patrimonium* of Milo. Tyrrell well remarks [ii. p. 197 *n.*] 'we are told that Milo spent *three* fortunes on acts of extravagance like this. Did any one ever hear of a man who had spent *two* or *four*?' Rau, generally a very acute critic, is guilty of a singular extravagance here. He takes *tribus* to mean 'tribes,' since bribery was conducted *tributim*, and supposes *tertium ... inveni* to be an interpolation in the scholium of Asconius! He has forgotten the passage in the argument (Ascon. 32) 'in quas *tria* patrimonia effudisse eum Cicero significat'!

2. **deleniret**: for the spelling see Müll. *cr. n.* on Clu. 13.

muneribus: cf. Q. F. iii. 8. 6 ludos apparat magnificentissimos: sic, inquam, ut nemo sumptuosiores: stulte bis terque non postulatos, ib. 9. 2 de re familiari (sc. Milonis) timeo, ὁ δὲ μαίνεται οὐκ ἔτ' ἀνεκτῶς, qui ludos HS CCCCIↃↃↃↃ comparet. Milo's conduct is defended, Off. ii. 55 sqq.

4. **esse**: the emendation *a se* proposed by Bake is very prosaic. He thinks it necessary for Milo to carry away the good-will of the senate as well.

5. **vestrorum ordinum**: the *iudices* are spoken of as a body allied to the senate, cf. § 4 *n.* The distinction is not an accurate one, since one-third of them were also senators.

6. **cursum ... coeperit**: cf. the line of Accius quoted Div. i. 45 quod ad dexteram *Coepit cursum* ab laeva (*coepit* B, *caepit* A, *cepit* edd. recc.), Fam. i. 9. 21 tenere cum periculo *cursum*, quem *coeperis*, and Mendelssohn ad loc., who compares for the transitive use of *coepisse*, denied by many critics, Rosc. Am. 52, Brut. 20, de Leg. ii 69 [see Class. Rev. March, 1894]. Mr. Purser adds Ennius, Med. 3 (= Fat. 35) neve inde navis incohandae exordium Coepisset (Ribbeck). For the sentiment cf. Tusc. D. iv. 38 quemcumque casum fortuna invexerit, hunc apte et quiete ferat, and Rep. i. 3 teneamus eum cursum, qui semper fuit optimi cuiusque, neque ea signa audiamus, quae receptui canunt. The variant *fortuna dederit* is very attractive, cf. Aen. iv. 653 quem *dederat cursum fortuna*, peregi; but (i), while this might have been substituted for the more difficult reading, the converse process is hardly possible, and (ii), *coeperit* suits better the defiant attitude of Milo. He has chosen his path, and will abide in it. Both variants are to all appearance very ancient ones.

7. **ablaturum**: 'often of what cannot be carried off in a literal sense; cf. the epitaph of Sardanapallus, Fin. ii. 106 se omnis secum *abstulisse* ... voluptates' [Reid].

vocem praeconis: cf. Verr. v. 38 non ipsa *praeconis voce* excitatus es, qui te totiens seniorum iuniorumque centuriis illo honore affici pronuntiavit?

denique, si haec arma contra se sint futura, sibi facinoris suspicionem, non facti crimen obstare. Addit haec, quae certe vera 97
sunt, fortes et sapientes viros non tam praemia sequi solere recte factorum quam ipsa recte facta; se nihil in vita nisi praeclarissime fecisse, si quidem nihil sit praestabilius viro quam periculis patriam liberare; beatos esse, quibus ea res honori fuerit a suis civibus, nec tamen eos miseros, qui beneficio cives suos vicerint; sed tamen ex omnibus praemiis virtutis, si esset habenda ratio praemiorum, amplissimum esse praemium gloriam; esse hanc unam, quae brevitatem vitae posteritatis memoriâ consolaretur, quae efficeret, ut absentes adessemus, mortui viveremus; hanc denique esse, cuius gradibus etiam in caelum 98
homines viderentur adscendere. 'De me,' inquit, 'semper populus Romanus, semper omnes gentes loquentur, nulla umquam ommutescet vetustas. Quin hoc tempore ipso, cum omnes a meis inimicis faces invidiae meae subiciantur, tamen omni in hominum

1. arma HE: *om.* Tδ. 10. brevitatem Hδ: *brevitate* TE. 14. ommutescet Hσ: *obmutescet* rell. 15. meis Hs: *suis* TEσχ; *tuis* Lambin. 16. meae: *mihi* Lambin. *subiciuntur* Lambin.

1. **haec arma**: cf. § 67 si *haec arma* . . . contra Mil. I look upon the omission of *arma* in T, the *parens deteriorum*, as a pure blunder. *Haec* by itself is very obscure. It is generally explained δεικτικῶς, sc. the arrangements for the trial.

facinoris . . . facti: cf. ad Herenn. iv. 68 quasi *facinus* praeclarissimum *fecisset*, Phil. xiv. 8 *facinus* . . . suo consilio *factum* esse testatur, Tull. 34, Rab. Post. 24, Off. iii. 95, Landgraf, *de fig. etym.* p. 19. Here *facinus* = 'evil intentions against l'ompey,' while *factum* is the *nex Clodiana*.

6. **quibus . . . honori fuerit**: cf. Off. ii. 58 *honori* summo nostro *Miloni fuit*, qui . . . P. Clodi conatus compressit. Nieländer, quoted in RH. n. 546, says 'the dative expressing result, or *factitive* dat. is in Cic. nearly always found with another dat., i.e. of the person. This double dat. may be compared with the double accus. in *aliquem facio consulem*, in one case expressing the object, and in the other completing the predicate. It conveys the idea of 'coming into being' or growth, e.g. here of honour in the future after the act.' See Roby, Pref. to Bk. iv. for a list of similar datives.

8. **praemiis**: for the threefold repetition of *praemium* in different cases to emphasize the idea cf. § 53 *n.* Other repetitions in this passage are *recte facta* . . . *recte factorum*, and *a suis civibus* . . . *cives suos*.

11. **absentes . . . viveremus**: cf. Lael. 23, where friendship is descanted upon in similar terms.

12. **gradibus . . . adscendere**: cf. Dom. 75 quibus tamquam *gradibus* mihi videar *in caelum* adscendisse, Leg. ii. 19 homini *adscensus in caelum*, Parad. 11.

14. **ommutescet**: I give this, the rarer spelling, from H. MSS. authority for it is also found, Pis. 26, Dom. 135, Flacc. 48, Tusc. ii. 50, de Or. ii. 27, Brut. 324. Cf. Neue, ii. 820.

15. **vetustas**: i.e. futurity, cf. Aen. x. 792.

meis . . . meae: the repetition of the possessive pronoun is intended for rhythmical effect: cf. § 94 *mei* . . . *meae*, § 99 *mei* . . . *mihi*, and § 82 *n.* This is injured by the conjecture *tuis*, which in itself would yield a good sense. That Cicero was not averse to inserting a word to round off a period, even if it did not add much to the sense, may be seen from *uni* § 90.

16. **subiciantur**: the subjunctive is used in spite of *hoc tempore ipso*, since *cum* expresses 'although': cf. de Or. ii. 21 *hoc ipso tempore, cum* omnia gymnasia philosophi *teneant*, Fin. ii. 65 *tum ipsum, cum* vigiliis et fame *cruciaretur*.

coetu gratiis agendis et gratulationibus habendis et omni sermone celebramur. Omitto Etruriae festos et actos et institutos dies; centesima lux est haec ab interitu P. Clodi et, opinor, altera; qua fines imperi populi Romani sunt, ea non solum fama iam de illo, sed etiam laetitia peragravit. Quam ob rem, ubi corpus hoc sit, non' inquit 'laboro, quoniam omnibus in terris et iam versatur et semper hic habitabit nominis mei gloria.'

36 99 Haec tu mecum saepe his absentibus, sed isdem audientibus haec ego tecum, Milo: 'Te quidem, cum isto animo sis, satis laudare non possum, sed, quo est ista magis divina virtus, eo

2. celebramur H: *celebrèmur* TEσ; *celebrentur* χs. 3. *haec est* T. 4. ea *om.* δ: *eo* Halm. 7. hic H: *om.* rell. 8. absentibus: *a sapientibus* H. isdem H, edd.: *hisdem* TEδ. 9. sis H: *es* rell. 10. ista H, edd.; *illa* TEδ.

2. **Etruriae**: see § 55 *n.* Such feasts would be termed *Annia* or *Miloniana*: cf. the *Marcellia* in Syracuse Verr. ii. 51, and the *Verria* instituted in their place ib. 52. Such honours were frequently paid to their governors by the Asiatic Greeks, e.g. the *Lucullea* at Cyzicus [Plut. Lucull. 23]. Cf. Att. v. 21. 7 *statuas fana τέθριππα prohibeo.*

3. **centesima et altera**: this should mean 102nd, cf. Liv. iii. 33. 1 anno trecentesimo *altero*, Manil. iv. 466 vicesima et *altera*. *Secunda* might have been used, cf. Rep. ii. 28 *secunda* et sexagesima. Caelius expresses 101st by *unus* et centesimus, Fam. viii. 8. 3: cf. vicesima *prima* Manil. v. 632 [Neue, ii. 319]. *Alter*, however, is frequently used in the sense of 'next,' not 'one after the next,' e.g. Clu. 178 unum, *alterum*, tertium annum, ib. 72, Verg. Ecl. viii. 39 *alter* ab undecimo . . . annus, i.e. 12th. See RH. p. 44. and n. 347.

lux: a poetical way of reckoning time, cf. Ovid, Pont. iv. 5. 7.

opinor: 'this and *ut opinor* are regularly used by Cicero, when introducing minute details in matters of art, science, geography, or chronology, in order to avoid the suspicion of pedantic exactitude' [Landgraf on Rosc. Am. 46].

4. **qua . . . ea**: cf. Liv. i. 27. 6 *qua* fortuna rem daret, *ea* inclinare vires.

7. **hic**: the adverb is added after *omnibus in terris*, as in Verr. iii. 187, et in praetura et *hic in Sicilia* versatus es.

9. **cum isto animo sis**: for the ordinary reading *cum . . . es* editors refer to Madvig, who says, 358 obs. 2, that 'after laudo, gratulor, gratias ago, *cum* is found with the indic. in the same sense as *quod*, "in that," e.g. Fam. ix. 14. 3 gratulor tibi, *cum* tantum *vales* apud Dolabellam.' On Fin. i. 10 he calls it an *archaic* construction, and quotes a number of passages from comedy, where the indic. follows after *gratulor* and *gratias ago*. It is naturally found in Cicero's letters, where the language of comedy is largely reproduced, e.g. l. c., and Fam. xiii. 24. 2 gratias ago, *cum* [*quod* Wesenb.] tantum litterae meae *potuerunt*. Except with this archaic construction, or where the events are looked on as contemporary, without connection of cause, he says 'ceteros locos ubi *cum* causale indicativum habet, non dubitabimus mendosos dicere.' On the present passage I would remark, (i) that there is a great difference between epistolary and oratorical idiom [see Tyrrell, i. 59 sqq.], and (ii) I doubt whether *laudo* should be included with *gratulor* and *gratias ago*. The only instance I find quoted, beyond the present passage, is Ter. Haut. ii. 4. 2 te . . . *laudo* et fortunatam iudico, Id *quom statuisti*, which is most inconclusive. See Wesenberg, Em. Alt. 7. Dr. Reid, who gives *es* here, refers to a previous note on § 39 *fecit* [al. *fecisset*] where he says that 'the indicatives mark the two actions as contemporaneous.' I do not, however, see how the present case can be brought under this rule.

10. **ista**: sc. 'of yours': for the corruption *illa* cf. Müller's *cr. n.* on § 68, where a number of instances are given, also supr. §§ 43, 56, 68 for similar confusion of the demonstrative pronouns.

maiore a te dolore divellor. Nec vero, si mihi eriperis, reliqua est illa saltem ad consolandum querella, ut iis irasci possim, a quibus tantum vulnus accepero; non enim inimici mei te mihi eripient, sed amicissimi, non male aliquando de me meriti, sed semper optime.' Nullum mihi umquam, iudices, tantum dolorem inuretis (tametsi quis potest esse tantus?), sed ne hunc quidem ipsum, ut obliviscar, quanti me semper feceritis. Quod si vos cepit oblivio mei, aut si in me aliquid offendistis, cur non id in meo capite potius luitur quam Milonis? praeclare enim vixero, si quid mihi acciderit, priusquam hoc tantum mali videro. Nunc 100 me una consolatio sustentat, quod tibi, T. Anni, nullum a me amoris, nullum studi, nullum pietatis officium defuit. Ego inimicitias potentium pro te appetivi, ego meum saepe corpus et vitam obieci armis inimicorum tuorum, ego me plurimis pro te supplicem abieci, bona, fortunas meas ac liberorum meorum in

1. eriperis: 'fort. *eripieris*' Lambin: ita Ox. unus [ω]. 2. saltem Hs: *tamen* TEσχ. 5. mihi umquam iud. HE: *umq. iud. mihi* Tδ. 6. tametsi H: *etsi* rell. 7. ut *om.* H. quod, scripsi: *quae* codd. 8. mei H: *om.* rell. in me: *me* T. id in H: *id* rell. 14. *abieci* E.

1. **eriperis**: the tense implies that Milo is already being dragged away. So supr. *divellor*, and § 103 *distrahor*.

2. **saltem**: 'at least,' i. e. even if you are gone, cf. § 6 si cetera amisimus, hoc nobis *saltem* ut *relinquatur*. If *tamen* is read, there is a suppressed clause, e. g. *quamvis doleam*. The two words are used together Aen. iv. 327 sqq.

Saltem . . . si quis mihi parvulus aula
Luderet Aeneas, qui te *tamen* ore referret,
Non equidem omnino capta ac deserta viderer;

where *tamen* = 'in spite of your cruelty.'

6. **tametsi**: frequently used in the figure of *correctio*, e. g. Verr. iv. 19 *tametsi* quae est ista laudatio? Marc. 21 de tuisne? *tametsi* qui magis sunt tui? In the last passage inferior MSS. alter to *etsi*, as here.

ne hunc quidem: sc. *ita inuretis*.

7. **quod si . . . oblivio mei**: 'If you have forgotten me,' a simple sense. The ordinary reading *quae oblivio* is explained as = *cuius rei oblivio*, (cf. § 75 *qua invidia*), i. e. *obliv. quanti me semper feceritis*, 'forgetfulness,' not 'of my merits,' but of 'the store you always set upon them,' a circuitous expression. For the repetition *mei* . . . *me* . . . *meo* cf. § 98 *n.*, and for the interchange of *quae* and *quod* § 12 *cr. n.*

8. **in meo capite**: 'in my person,' cf. Fam. vii. 2. 3 cum omnis resp. *in meo capite* discrimen esset habitura, ib. i. 9. 13 iecit casus *caput meum* ('my unhappy self,' Jeans) . . . in mediam contentionem. *Meo capite* would = 'by my condemnation,' or exile, *caput* being used in its technical sense.

12. **pietatis**: 'devotion'; cf. Fam. i. 1. 1 omni officio ac potius *pietate*, ib. 9. 1 sanctissimum nomen *pietatis* levius mihi meritis erga me tuis. That Cicero's statement was not an idle boast may be seen from Ascon. 39.

13. **inimicitias**: sc. of the three tribunes, and even of Pompey, ib.

15. **bona, fortunas**: the plur. *fortunae* generally = gifts of fortune, i. e. wealth, in Cicero; rarely good or bad fortune, e. g. Tusc. D. v. 115. Here *fortunas* = bona, cf. Verr. ii. 59 *bona patria fortunasque* eius Bidinis tradidit. Sometimes it is used of 'status,' or *incolumitas*, e. g. Fam. vi. 10. 2 de tuis *fortunis*, id est, de tua *incolumitate*, Planc. 31 in iudicio *capitis* . . . in dimicatione *fortunarum*, Verr. iii. 133 sponsio fit de *capite* ac *fortunis* tuis, &c.

liberorum: Hellmuth, p. 108, remarks

communionem tuorum temporum contuli; hoc denique ipso die, si qua vis est parata, si qua dimicatio capitis futura, deposco. Quid iam restat? quid habeo, quod faciam pro tuis in me meritis, nisi ut eam fortunam, quaecumque erit tua, ducam meam? Non abnuo, non recuso, vosque obsecro, iudices, ut vestra beneficia, quae in me contulistis, aut in huius salute augeatis aut in
37 eiusdem exitio occasura esse videatis. His lacrimis non commo-
101 vetur Milo; est quodam incredibili robore animi; exsilium ibi esse putat, ubi virtuti non sit locus; mortem naturae finem esse, non poenam. Sit hic ea mente, qua natus est; quid? vos, iudices, quo tandem eritis animo? Memoriam Milonis retinebitis, ipsum eicietis? et erit dignior locus ullus in terris, qui hanc virtutem excipiat, quam hic, qui procreavit? Vos, vos appello,

1. temporum *om.* E. 2. si qua vis H: *si quae v.* TEδ. si qua dim. HEδ: *si quae dim.* T. dimicatio: *diminutio* E. 3. quod faciam H, Naugerius: *quid fac.* TEδ. 5. vestra: *nostra* H. 7. his: *hic* Bake, qui voc. *Milo* del. commovetur Hs: *movetur* rell. 8. *sed exsil.* E. 9. sit H, et corr. in *s*: *sed* rell. 10. quid? vos, Müller: *quid vos* vulg. 11. eritis animo H: *animo eritis* rell. 12. ullus in terris HEs: *in terris ullus* Tσχ. 13. vos, vos: *vos* E.

that this form is the only one which appears in the later speeches. In the earlier ones Cicero often uses *liberum*, e.g. Verr. i. 7, 40, 77, 153.

2, **si qua . . . si qua**: cf. Verr. v. 149 *si qua* civitas . . . *si qua* natio, ib. 173 *si qua vis*, and § 17 *n.*

deposco: sc. *mihi partem*, cf. Rosc. Am. 95, Scaur. 31.

4. **ducam meam**: sc. Cic. will share his exile. Milo must have smiled at this flourish, when he read the speech at Massilia. Cicero makes a similar declaration, Planc. 102 fortunarum tuarum . . . *comitem sociumque* profitebor.

non abnuo, non recuso: the verb *abnuere* is not used elsewhere in the speeches, and occurs only three times in the philosophical writings. It is not found in Caesar, but became very common in later Latin. As the word is a rare one, Cicero puts after it the familiar *non recuso*, cf. Quinct. 44. 61, Phil. ii. 33. *Recuso* is especially used in the legal sense of raising a plea [causa], e.g. Clu. 154 non hoc *recusabant*, ne ea lege *accusarentur*, de Inv. ii. 12 aliud *accusatio* aut *recusatio* conficere debet.

6. **aut . . . aut**: the stress lies upon the first clause, though grammatically the construction of the second is the same, cf. § 79 *n.*

7. **non commovetur**: 'is not shaken,' cf. Clu. 137, Planc. 76. *Movetur* = 'is not touched,' cf. § 34, Cat. iv. 3. It is more likely that the simple verb has been substituted for the compound, than *vice versa*: cf. § 16 *n.*

9. **mortem**: loss of status by condemnation is identified with death, cf. § 59, and § 5 *n.*

10. **sit**: cf. Fam. vi. 1. 4 *simus* igitur *ea mente*, and for the structure, Ac. ii. 80 *sit* hic quidem maiorum similis: *tu vero . . . qui* ea distinguis? Fin. ii. 92, Tusc. D. 102. *Sit* corresponds to *eritis*, as *hic* to *vos*. The variant *sed* yields an equally good sense: cf. for the ellipse Tusc. D. i. 70 *sed* alias ubi sit animus: certe quidem in te est, and Fin. i. 18. Possibly Cicero wrote *sed sit*, cf. Att. ix. 13. 6 *sed sint* quamvis boni, Nat. D. ii. 47 *sed sint* ista pulchriora, Div. i. 60 *sed sint* falsa quaedam: contra vera quid dicimus? ib. ii. 49 *sed sit* hoc fictum, quid? Ac. ii. 117.

11. **eritis animo**: possibly a better order than *animo erit.* as avoiding the hiatus (Quintil. ix. 4. 33).

12. **hanc virtutem**: so infr. *tanta virtus.* Cf. de Or. iii. 1 *illa virtus* . . . morte exstincta est.

13. **procreavit**: Cicero includes Lanuvium, the actual birthplace of Milo, in the larger commonwealth of Rome: cf. Leg. ii. 5.

fortissimi viri, qui multum pro re publica sanguinem effudistis; vos, inquam, in civis invicti periculo appello, centuriones, vosque, milites; vobis non modo inspectantibus, sed etiam armatis et huic iudiciō praesidentibus haec tanta virtus ex hac urbe expel-
5 letur, exterminabitur, proicietur? O me miserum, o me infelicem! 102
Revocare tu me in patriam, Milo, potuisti per hos, ego te in patria per eosdem retinere non potero? Quid respondebo liberis meis, qui te parentem alterum putant? quid tibi, Quinte frater, qui nunc abes, consorti mecum temporum illorum? mene non
10 potuisse Milonis salutem tueri per eosdem, per quos nostram ille servasset? at in qua causa non potuisse? quae est grata

2. vos, inquam, in civis, scripsi: *vos inquam et cives invicti* H: *vos in viri et in civis* TEσ. periculo appello HEs: *appello periculo* Tσχ. 5. *proicitur* H. *te infelic.* Quintil. vi. 1. 24 (sed xi. 3. 172 me infelic.): *infelicem*, om. *me*, Tδ. 6. tu me: *me tu* Quintil. vi. 1. 24 (sed xi. 3. 172 *tu me*); *tu* post *potuisti* T. 8. Quinte H: *Q.* Tδ; *om.* E. 11. grata ⟨*omnibus*⟩ gentibus, Garatoni: *grā* [i.e. gratia] *ingentibus* H; *grata gentibus* TEδ; *omnibus; at quibus iudicantibus* post *gentibus* inseruit Madvig; *omnibus; at quibus eam probari non potuisse* eodem loco Halm. Olim conieci *gratiis digna ingentibus*, vel *gratia ingenti omnibus in gentibus* Anecd. p. li: nunc neutrum placet.

2. **vos, inquam, in civis**: *in viri*, which occupies the place of *inquam* in all MSS. except H, may be a repetition from the preceding line, cf. § 49 *n.* The ordinary reading is not satisfactory, since although the conjunction of *vir* and *civis* is frequent, e.g. § 38, an epithet is required, e.g. *fortis*, to balance *invicti*.

3. **inspectantibus**: either 'looking on with pain,' or 'looking on and doing nothing.' The former is the sense assigned to the verb by Cobet [Mnem. 1879, p. 118], cf. § 74. It also conveys the idea of 'astonishment,' e.g. Div. i. 32 cotem *inspectante* et rege et populo novacula esse discissam. In several passages it = περιορᾶν, i.e. look *idly* on, cf. Pis. 9 *inspectante* ac tacente te with ib. 11 ne conivente quidem te . . . sed etiam *hilarioribus oculis* . . . intuente, where similar conduct on the part of Piso is described.

4. **expelletur**, &c.: cf. Cat. ii. 1 *abiit, excessit, evasit, erupit*; Dem. [?] κατ' Ἀριστογ. i. 95 ἐξορίσαι, ῥῖψαι ἐκ τῆς πόλεως, ἀνελεῖν.

5. **me miserum**: for the character of the epilogue see p. lvii. A noticeable feature in it is that the relatives of Milo are not addressed to excite compassion, as is usual in a peroration of Cicero. His parents were dead [Ascon. on § 95], while, if Cicero does not allude to Fausta's grief, he doubtless had reason for avoiding the theme, as likely to provoke a smile. His fellow-townsmen from Lanuvium, who were keenly interested in behalf of Murena, also a native of that town [Mur. 90], are not mentioned as grieving for Milo. The comparison with Mur. l. c. is significant, *date patri mortuo, date generi et familiae, date etiam Lanuvio . . . quod in hac causa frequens maestumque vidistis.*

9. **qui nunc abes**: i.e. in Gaul as a *legatus* under Caesar.

mene non potuisse: sc. *respondebo*, as is shown by the subj. *servasset*.

11. **ille**: the pronoun is here properly used of Milo, since Cicero is addressing his brother, not the *iudices*, cf. § 56 *n.*

grata ⟨*omnibus*⟩ gentibus: Garatoni's conjecture, that *omnibus* has dropped out, still remains the simplest solution of the difficulties presented by this passage. For the mention of foreign nations in this context cf. §§ 77, 98, and, for the omission of *omnibus* the converse corruption found in P, § 73, *omnes gentes*: om. *gentes* P. The existence of the lacuna, which was further indicated by Madvig, Op. Ac. i. 155, is witnessed by the unconstrueable reading in H. The supplements proposed by Madvig and others are mere guesswork.

⟨*omnibus*⟩ gentibus. a quibus non potuisse? ab iis, qui maxime
103 P. Clodi morte acquierunt. Quo deprecante? me. Quodnam ego concepi tantum scelus aut quod in me tantum facinus admisi, iudices, cum illa indicia communis exiti indagavi, patefeci, protuli, exstinxi? Omnes mihi meisque redundant ex fonte illo dolores. Quid me reducem esse voluistis? an ut inspectante me expellerentur ii, per quos essem restitutus? Nolite, obsecro vos, acerbiorem mihi pati reditum esse, quam fuerit ille ipse discessus; nam qui possum putare me restitutum esse,
38 si distrahor ab *i*is, per quos restitutus sum? Utinam di immortales fecissent (pace tua, patria, dixerim; metuo enim ne scelerate dicam in te, quod pro Milone dicam pie)—utinam P. Clodius non modo viveret, sed etiam praetor, consul, dictator
104 esset potius, quam hoc spectaculum viderem! O di immortales, fortem! et a vobis, iudices, conservandum virum! 'Minime,

1. a quibus non potuisse? ab iis Hsχ [*his* pro *iis*, ut saepe]: *non potuisse iis* [*his* E] TE; *non potuisse*? *iis* vulg. 2. quo Hδ: *quod* TE. 5. *pertuli* H. mihi meisque H: *in me meosque* rell. 7. ii T: *hii* H; *hi* E. 9. *me putare* T. esse *om.* H. 10. distrahor Hδ: *distrahar* TE. iis edd.: *his* codd. 13. praetor, consul Hs: *proconsul* TE. 14. potius: *ante* δ. 15. *virum conservandum, iudices*, H.

1. **a quibus . . . ab iis**: sc. *tueri*. Cicero assumes that the jurors are going to condemn Milo, and so naturally speaks of protecting him from them, so supr. non enim inimici mei *te mihi eripient*, sed *amicissimi*, cf. de Inv. i. 109 tertius decimus (locus), per quem cum indignatione conquerimur, quod *ab iis, a quibus minime conveniat, male tractemur, propinquis, amicis*, &c. For the construction cf. § 91 *ab eo . . . forum defendi*. I cannot see the force of Madvig's objection to this reading, that *a quibus* could only be used 'of the accuser, or of a venal or biassed juror.'

2. **quodnam . . . extinxi**: this is a reproduction of a passage in the peroration of the pro Sestio, 145 quod *tantum* est in me *scelus*? quid tanto opere deliqui illo, illo die, *cum* ad vos indicia, litteras, confessiones *communis exiti* detuli?

5. **mihi meisque**: a dat. incommodi; cf. Q. F. iii. 9. 1 quod quidem bonum *mihi* nunc denique *redundat*, Cat. ii. 29 ne quid invidiae *mihi* in posteritatem *redundaret*. The common construction with *in* and the accus. has a slightly different meaning, and expresses the direction taken, e. g. de Or. i. 3 fluctibus, qui per nos a communi peste depulsi *in* nosmet ipsos *redundarent*. With the dat. the stress rests upon *ex fonte illo*; with the accus. on *in me meosque*.

7. **ii**: a rhetorical plural, since Milo alone is in danger; cf. § 17 *n*.

10. **distrahor**: the indicative is more vivid, as implying that Milo is already being torn away: cf. § 99 *n*.

15. **a vobis conservandum**: a somewhat rare construction in place of the usual dative; cf. Fam. xv. 4. 11 admonendum potius te *a me* quam rogandum puto. It is employed either for the sake of *concinnitas*, or to avoid ambiguity, e. g. with verbs which govern the dat., cf. Imp. Pomp. 6 quibus est *a* vobis . . . consulendum, or to emphasise the person of the agent, as here. For the literature upon the subject see RH. n. 581. The passage usually quoted from Imp. Pomp. 20 ne forte *a* vobis . . . contemnenda esse videantur, is not to the point, since *ea* should be read: cf. Anecd. p. liv. *Conservare* is specially used in connection with civil status, e. g. Verr. ii. 76 retinete hominem *in civitate* . . . parcite et *conservate*, so Clu. 200, Planc. 104. So also of restoring exiles, Marc. 20 noli in *conservandis* bonis viris defatigari.

iudices: I retain this word in its usual

minime' inquit; 'immo vero poenas ille debitas luerit; nos subeamus, si ita necesse est, non debitas.' Hicine vir patriae natus usquam nisi in patria morietur aut, si forte, pro patria? huius vos animi monimenta retinebitis, corporis in Italia nullum sepulcrum esse patiemini? hunc sua quisquam sententia ex hac urbe expellet, quem omnes urbes expulsum a vobis ad se vocabunt? O terram illam beatam, quae hunc virum exceperit, 105 hanc ingratam, si eiecerit, miseram, si amiserit! Sed finis sit; neque enim prae lacrimis iam loqui possumus, et hic se lacrimis defendi vetat. Vos oro obtestorque, iudices, ut in sententiis ferendis, quod sentietis, id audeatis. Vestram virtutem, iustitiam, fidem, mihi credite, is maxime comprobabit, qui in iudicibus legendis optimum et sapientissimum et fortissimum quemque elegit.

2. non debitas *om.* T. 3. pro patria: *non pro patria* Hirschfelder; *procul pro patria* Peyron. 7. O terram illam beatam: *terram* H. *excipit* H. 9. prae: *pro* H. possumus H: *possum* rell. et Quintil. xi. 3. 173. 11. *quos sentitis* H. 12. comprobabit, scripsi: *comprobavit* H; *probabit* rell. 13. et fortissimum *om.* Tσ. 14. quemque: *quem* H. elegit HT: *legit* Eσ; *delegit* sχ.

place, this being the more forcible order: cf. Verr. v. 1, and Madvig, Op. Ac. i. 365 'gravior fit oratio dirempta interposito iudicum nomine.' He compares Verr. iii. 46, v. 140, Cael. 66, Balb. 18.

3. **nisi in patria**: cf. Rab. Perd. 37 ut eum, qui *pro patria* nullum umquam mortis periculum fugit, *in patria mori* patiamini. The ellipse after *si forte* appears to be, *extra patriam morietur*. As *capite deminutus*, he could not serve in the army. Kraffert thinks that this passage was added after the death of Milo, but it looks like a commonplace of rhetoric. For the threefold repetition of *patria* cf. § 53 *n.* and *urbe* . . . *urbes* infr.

5. **sepulcrum**: cf. Orat. 160 for the spelling of the word.

8. **miseram . . . amiserit**: cf. § 7 *n.*

sed finis sit: Quintil. xi. 3. 173 says of these words, that 'they are the avowal of one who is fainting with sorrow and fatigue, so that the delivery should suit the language employed.'

9. **prae lacrimis**: cf. Att. ix. 12. 1 *prae* lacrimis, xi. 7. 6 *prae* fletu et dolore, Planc. 99 *prae* maerore. The use of *prae* in such phrases is in classical Latin confined to clauses, where a negative is expressed or implied.

possumus: Cicero includes the audience in his emotion: cf. Planc. 104 plura ne dicam, tuae me etiam lacrimae impediunt, *vestrae*que, iudices, *non solum meae*, so Verr. v. 172, Rab. Post. 48. Compare Ar. Rhet. iii. 7. 5 *συνομοιοπαθεῖ ἀεὶ ὁ ἀκούων τῷ παθητικῶς λέγοντι.*

12. **comprobabit**: a stronger form than the simple verb: cf. § 16 *n.* for the variants.

13. **fortissimum**: Cicero appeals to their courage, thus striking in the epilogue the same note which he had sounded in the proem.

31

PRO MILONE

[Deviations from the text of Kiessling and Schöll are recorded in the critical notes.]

HANC ⟨*orationem*⟩ dixit Cn. Pompeio III cos. a. d. VI*I* Id. April. Quod iudicium cum ageretur, exercitum in foro et in omnibus templis quae circum forum sunt collocatum a Cn. Pompeio fuisse non tantum ex oratione et annalibus, sed etiam ex libro apparet qui Ciceronis nomine inscribitur de optimo genere oratorum.

ARGUMENTUM HOC EST

⟨*T.*⟩ Annius Milo et P. Plautius Hypsaeus et Q. Metellus Scipio consulatum petierunt non solum largitione palam profusa, sed etiam factionibus armatorum succincti. Miloni et Clodio summae erant inimicitiae, quod et Milo Ciceronis erat amicissimus in reducendoque eo enixe operam tr. pl. dederat, et P. Clodius restituto quoque Ciceroni erat infestissimus ideoque summe studebat Hypsaeo et Scipioni contra Milonem. Ac saepe inter se
32 Milo et Clodius cum suis factionibus | Romae depugnaverant: et erant uterque audacia pares, sed Milo pro melioribus partibus stabat. Praeterea in eundem annum consulatum Milo, Clodius praeturam petebat, quam debilem futuram consule Milone intellegebat. Deinde cum diu tracta essent comitia consularia perficique ob eas ipsas perditas candidatorum contentiones non

2. orationem, suppl. KS in Addendis. VI*I*, scripsi: VI.

2. **a. d. VI*I***: see p. 127.
6. **de opt. gen. or.**: § 10.
9. **P. Plautius Hypsaeus**: see pp. xix, xxviii.
17. **erant uterque**: this use of the plural verb with *uterque* is chiefly ante- and post-classical, cf. however Sall. Catil. 49. 2, and Caes. B. C. ii. 6. 5 [Krebs-Allg.]. Asconius uses it again, 34 *dicebant uterque*.
19. **debilem . . . Milone**: a quotation from the speech § 25. So *tracta essent com.* is taken from § 24.

possent, et ob id mense Ianuario nulli dum neque consules neque praetores essent trahereturque dies eodem quo antea modo— dum Milo quam primum comitia confici vellet confideretque cum bonorum studiis, quod obsistebat Clodio, tum etiam populo propter effusas largitiones impensasque ludorum scaenicorum ac gladiatorii muneris maximas, in quas tria patrimonia effudisse eum Cicero significat; competitores eius trahere vellent, ideoque Pompeius gener Scipionis et T. Munatius tribunus plebis referri ad senatum de patriciis convocandis, qui interregem proderent, non essent passi, cum interregem prodere stata res esset—: a. d. XIII Kal. Febr. (Acta etenim magis sequenda et ipsam orationem, quae Actis congruit, puto quam Fenestellam, qui a. d. XIIII Kal. Febr. tradit) Milo Lanuvium, ex quo erat municipio et ubi tum dictator, profectus est ad flaminem prodendum postera die. Occurrit ei circa horam nonam Clodius paulo ultra Bovillas, rediens ab Aricia, prope eum locum in quo Bonae Deae sacellum est; erat autem allocutus decuriones Aricinorum. Vehebatur

1. **nulli dum**: this use of *dum* with negatives is not uncommon, e.g. *nondum, nihil dum, nemo dum.* Terence joins it with *etiam* Haut. T. ii. 1. 16 *neque etiam dum* scit pater.

5. **ludorum**: § 95 *n.*

8. **gener Scipionis**: these words seem to imply that the marriage of Pompey to Cornelia had already taken place. Mr. Purser, however, compares Dig. xxxviii. 10. 6. 1 *Generi* et nurus appellatione *sponsus* quoque et sponsa continetur.

9. **de patriciis . . . proderent**: sc. the patrician members of the senate, who met in committee to elect an *interrex*, or to bestow the *patrum auctoritas* [Mommsen, Forschungen, i. 225]. Although the tribune could not directly veto the appointment made, he could indirectly stop the proceedings by preventing the senate from being called together. *Prodo* is used technically of the nomination of a person belonging to a privileged body, e.g. Leg. iii. 9 auspicia patrum sunto, ollique *ec se produnto*, qui comitiatu creare consules rite possiet. Cf. Staatsrecht, i. 656 sqq.

10. **stata res**: see § 45 *n.*

11. **Acta**: Caesar in his first consulship took measures for the publication of the transactions of the senate. The *Acta diurna*, or news-sheet for the capital, appear to have been largely founded upon these [Mommsen, iv. 606]. Asconius continually refers to the *Acta*, e.g. on § 14 *Acta etiam totius illius temporis perscrutatus sum.*

orationem: § 27.

12. **Fenestellam**: this historian, who lived under Augustus, is mentioned by Ascon. [in Cornel. 66], together with Sallust and Livy. He does not appear to have been very accurate. Thus Ascon. [in Tog. Cand. 85] doubts his statement that Cicero defended Catiline in 65 B.C., and [*ap.* Gell. xv. 28] points out his error in saying that Cicero defended Sex. Roscius at the age of twenty-five.

13. **ex quo erat municipio**: for Milo's relations with his *municipes* cf. § 102 *n.*

14. **ubi tum dictator**: cf. §§ 45, 46. It is probably from this source that the addition in § 27 *quod erat dict. Lanuv. Milo* is taken: cf. p. xlviii. The chief magistrate in several Latin towns was termed dictator. Other cases were at Alba, Caere, Tusculum, and Nomentum. The royal power, instead of being divided between colleagues as at Rome, was vested in a single magistrate holding office for one year [Staatsrecht, ii. 170 sqq.]

postera die: § 27 *n.*

15. **horam nonam**: § 29 *n.*

16. **Bonae Deae**: § 86.

17. **allocutus**: cf. Tac. Hist. iii. 37 *senatum allocutus*, Suet. Caes. 33, &c.

Clodius equo; servi XXX fere expediti, ut illo tempore mos
33 erat iter facientibus, gladiis cincti | sequebantur. Erant cum
Clodio praeterea tres comites eius, ex quibus eques Romanus
unus C. Causinius Schola, duo de plebe noti homines P. Pom-
ponius ⟨*et C. Clodius*⟩. Milo reda vehebatur cum uxore Fausta, 5
filia L. Syllae dictatoris, et M. Fusio familiare suo. Sequebatur
eos magnum servorum agmen, inter quos gladiatores quoque
erant, ex quibus duo noti Eudamus et Birria. Ii in ultimo
agmine tardius euntes cum servis P. Clodi rixam commiserunt.
Ad quem tumultum cum respexisset Clodius minitabundus, 10
umerum eius Birria rumpia traiecit. Inde cum orta esset pugna,
plures Miloniani accurrerunt. Clodius vulneratus in tabernam
proximam ⟨*in*⟩ Bovillano delatus est. Milo ut cognovit vul-
neratum Clodium, cum sibi periculosius illud etiam vivo eo
futurum intellegeret, occiso autem magnum solacium esset habi- 15
turus, etiamsi subeunda esset poena, exturbari taberna iussit.
Fuit antesignanus servorum eius M. Saufeius. Atque ita Clodius
latens extractus est multisque vulneribus confectus. Cadaver
eius in via relictum, quia servi Clodi aut occisi erant aut graviter
saucii latebant, Sex. Teidius senator, qui forte ex rure in urbem 20
revertebatur, sustulit et lectica sua Romam ferri iussit; ipse
rursus eodem unde erat egressus ⟨*se*⟩ recepit. Perlatum est
corpus Clodi ante primam noctis horam, infimaeque plebis et
servorum maxima multitudo magno luctu corpus in atrio domus

6. Fusio, codd.: *Fufio.* 20. Teidius, Willems: *Tedius.*

4. **noti homines**: Asconius is fond of this phrase, infr. 38, e. g. *notum hominem*, in Cornel. 59 *notis* operarum ducibus, in Tog. Cand. 91 *notus* centurio Syllanus. The *notus homo* is the person who would be known to the *nomenclator*, cf. Att. iv. 1. 15 nemo ullius ordinis homo *nomenclatori notus*, . . . qui mihi obviam non venerit.

6. **Fusio**: I retain the reading of the MSS., which is generally altered to *Fufio*, or *Saufeio*. For the latter cf. infr. The name *Fusius* is not uncommon, e. g. a C. Fusius Cita is mentioned Caes. B. G. vii. 3. Cf. Liv. iii. 4. 1 *Furios Fusios scripsere quidam*; and Seneca, Excerpt. Contr. iii. praef. *si Thrax essem, Fusius essem*, where it is the name of a gladiator.

8. **noti**: i. e. they had distinguished themselves in the theatre [Reid], or else in the service of Milo.

11. **rumpia**: *genus teli est Thracae nationis* Gell. x. 25. Birria (= Πυρρίας) was doubtless a *Thrax*, the name being specially used of 'red-haired slaves from Thrace' [Lidd. and S.]. For the name cf. Ξανθίας, and Schol. on Ar. Ran. 720 ὁ μὲν πυρρὸς ἦν τὴν κόμην, ὁ δὲ ξανθός. A similar name is Rufio, § 60.

14. **etiam vivo**: 'if he continued to live,' cf. § 53 *n.*

19. **occisi**: according to Metellus Scipio, infr. 36, eleven were killed.

20. **Sex. Teidius**: Willems, Sénat, i. 500, thinks this may be the Τίδιος Σέξτιος who in extreme old age (ἐσχατογήρως) joined Pompey in Greece in 49 B.C. (Plut. Pomp. 64). For the spelling of the name cf. C. I. i. p. 231. 1090.

23. **ante primam noctis horam**: §§ 29, 49 *n.*

positum circumstetit. Augebat autem facti invidiam uxor Clodi Fulvia, quae cum effusa lamentatione vulnera eius ostendebat. Maior postera die luce prima multitudo eiusdem generis confluxit, compluresque noti homines visi sunt. Erat domus Clodi ante paucos menses empta de M. Scauro in Palatio: eodem ⟨*T.*⟩ Munatius Plancus, frater L. Planci oratoris, et | Q. Pom- 34
peius Rufus, Syllae dictatoris ex filia nepos, tribuni plebis accurrerunt: eisque hortantibus vulgus imperitum corpus nudum ac calcatum, sicut in lecto erat positum, ut vulnera videri possent, in forum detulit et in rostris posuit. Ibi pro contione Plancus et Pompeius, qui competitoribus Milonis studebant, invidiam Miloni fecerunt. Populus duce Sex. Clodio scriba corpus P. Clodi in curiam intulit, cremavitque subselliis et tribunalibus et mensis et codicibus librariorum; quo igne et ipsa quoque curia flagravit, et item Porcia basilica, quae erat ei iuncta, ambusta est. Domus quoque M. Lepidi interregis (is enim magistratus curulis erat

4. visi, Rinkes, *elisi*: *post* sunt *add. codd.* inter quos C. Vibienus senator, *del.* Rinkes.
9. calcatum, Daniel: *lutatum*.

4. **noti homines visi sunt**: the *noti hom.* (v. supr.) opposed to the *infimae plebis multitudo*. I accept the brilliant emendation of Rinkes, cf. § 37 *n*. The vulgate not only causes the greatest difficulty in connection with the statement of Cicero, l.c., but also destroys the contrast between the *noti hom.* and the rest of the mob. Also *elisi* seems strangely used for 'crushed.' It should mean 'throttled.' The interpolation is instructive as showing that Asconius was corrupted from Cicero as well as *vice versa*: cf. p. xlviii.

5. **empta de M. Scauro**: cf. p. xiii, and Plin. N. H. xxxvi. 103 cum ... si quem impensae movent captis avaritia animis, HS CXLVIII domo empta Clodius, quem Milo occidit, habitaverit, quod equidem non secus ac regum insaniam miror.

6. **Q. Pompeius Rufus**: p. xviii. 3.

12. **duce Sex. Clodio**: cf. § 90 *n*.

14. **librariorum**: generally translated, 'booksellers,' and referred to their shops in the Forum: cf. Phil. ii. 21. From Leg. iii. 46 legum custodiam nullam habemus, itaque eae leges sunt, quas *apparitores nostri* volunt, a *librariis* petimus, ib. 48, and Leg. Agr. ii. 32 *apparitoribus, scribis, librariis*, I would suggest that the 'secretaries' of various senators formed a collection of laws and other documents for their masters, and that these, being left in the senate-house, perished in the flames.

curia: sc. Hostilia. For its position cf. Middleton i. 237. It was rebuilt by Faustus Sulla, Milo's brother-in-law, under the title of *curia Cornelia* (Dio C. xl. 50). Not only was the *curia* consumed, but the pedestal of the ancient statue of Attus Navius, the augur, was burned (Plin. N. H. xxxiv. 21), this being near the steps which led up to the *curia* (Liv. i. 36).

15. **Porcia basilica**: see Middleton, i. 247. It was named after the elder Cato, who built it in B. C. 184. The adjoining *basilica Aemilia* does not appear to have been burned, though its rebuilding by L. Aemilius Paulus in 50 B. C. may point to its having sustained damage.

16. **interregis**: cf. Ascon. on § 13 post biduum medium quam Clodius occisus erat interrex primus proditus est M. Aemil. Lepidus, i.e. on Jan. 21 [Staatsrecht, i. 654. 4]. Dio C. represents the election as taking place on the evening of the 19th, εὐθὺς γοῦν τῆς δείλης ἐς τὸ παλάτιον δι' αὐτὸ τοῦτο συλλεγέντες τόν τε μεσοβασιλέα προχειρισθῆναι κ.τ.λ. He also conceives that the *sen. cons. ultimum* (infr. 35) was passed on that occasion. See pp. xi, xxiv. 2.

creatus) et absentis Milonis eadem illa Clodiana multitudo oppugnavit, sed inde sagittis repulsa est. Tum fasces ex luco Libitinae raptos attulit ad domum Scipionis et Hypsaei, deinde ad hortos Cn. Pompeii, clamitans eum modo consulem modo dictatorem.

Incendium curiae maiorem aliquanto indignationem civitatis moverat quam interfectio Clodi. Itaque Milo, quem opinio fuerat ivisse in voluntarium exilium, invidia adversariorum recreatus nocte ea redierat Romam, qua incensa erat curia. Petebatque nihil deterritus consulatum ; aperte quoque tributim in singulos ⟨*singula*⟩ milia assium dederat. Contionem ei post aliquot dies dedit M. Caelius tribunus plebis atque ipse etiam causam eius egit ad populum. Dicebant uterque Miloni a Clodio factas esse insidias.

35 Fiebant interea alii ex aliis interreges, quia comitia consularia propter eosdem candidatorum tumultus et easdem manus armatas haberi non poterant. Itaque primo factum erat S. C., ut interrex et tribuni plebis et Cn. Pompeius, qui pro cos. ad urbem erat, viderent ne quid detrimenti res publica caperet, dilectus autem Pompeius tota Italia haberet. Qui cum summa celeritate praesidium comparasset, postulaverunt apud eum familiam Milonis,

16. eosdem, Richter: *eorum.*

1. **Milonis**: sc. *in Cermalo.* It was accustomed to stand a siege (Att. iv. 3. 3, and § 38 *n.*), and was probably well garrisoned. Milo's absence may have been due to the fact that on Jan. 22 he tried to interview Pompey (Ascon. on § 67).

2. **fasces ex luco Libitinae raptos**: cf. § 91 *cum fascibus ad Castoris.* The *fasces* seized on this occasion were not those used by the consuls, since there is no reason for supposing that these would be kept in the *lucus Libitinae* during an *interregnum*, but those employed at funerals, which we know to have been lodged there. Cf. Plut. Quaest. Rom. 23 διὰ τί τὰ πρὸς τὰς ταφὰς πιπράσκουσιν ἐν τῷ τεμένει τῆς Λιβιτίνης; Polyb. vi. 53 ῥάβδοι καὶ πελέκεις καὶ τἄλλα τὰ ταῖς ἀρχαῖς εἰωθότα συμπαρακεῖσθαι προηγεῖται κατὰ τὴν ἀξίαν ἑκάστῳ, sc. in the funeral procession. So Leg. ii. 61 dominus funeris utatur accenso atque lictoribus. An obvious objection to the conjecture of Rinkes *faces . . . raptas* is that it would not be necessary to break into the *lucus* to obtain these. They appeared at once in any riot at Rome.

9. **nocte ea**: sc. Jan. 19: cf. § 61 *n.*

10. **deterritus**: possibly *deterius*, the MSS. reading, should be kept: cf. Hor. Sat. i. 10. 89 si placeant spe *Deterius* nostra.

in singulos . . . assium: i. e. 400 sesterces each. The enormity of the bribe may be judged from the fact that Caesar in his will only left the people 300 sesterces *viritim.*

12. **M. Caelius**: see pp. xi, xxi.

13. **uterque**: Milo and Caelius appear to have originally suggested the line of defence afterwards taken up by Cicero.

17. **primo factum erat**: the words *alii ex aliis* supr. imply a succession of *interreges*, each of whom would hold office for five days, so that the sen. cons. can only have been passed well on in February, or in the intercalary month, cf. infr.

18. **pro cos. ad urbem**: cf. p. xxiii. 4.

item Faustae uxoris eius exhibendam duo adulescentuli, qui Appii Claudii ambo appellabantur; qui ⟨*filii*⟩ erant C. Claudi, qui frater fuerat Clodi, et ob id [illi] patrui sui mortem velut auctore patre persequebantur. Easdem Faustae et Milonis familias postulaverunt duo Valerii, Nepos et Leo, et L. Herennius Balbus. P. Clodi quoque familiam et comitum eius postulavit eodem tempore Caelius; familiam Hypsaei et Q. Pompei postulavit . . . . . Adfuerunt Miloni Q. Hortensius, M. Cicero, M. Marcellus, M. Calidius, M. Cato, Faustus Sylla. Verba pauca Q. Hortensius ⟨*fecit*⟩ dixitque liberos esse eos, qui pro servis postularentur; nam post recentem caedem manu miserat eos Milo sub hoc titulo, quod caput suum ulti essent. Haec agebantur mense intercalari. Post diem tricesimum fere quam erat Clodius occisus Q. | Metellus Scipio in senatu contra M. 36
† Caepionem conquestus est de hac caede P. Clodi: falsum esse

2. **Appii Claudii**: one of these brothers had been spoken of in B.C. 58 as a probable accuser of Q. Cicero upon his return from Asia [Att. iii. 17. 1]. In 43 B.C. Cicero speaks of himself as closely connected by friendship *cum Appio Claudio C. F.*, so that he does not appear to have resented their action on this occasion [Fam. xi. 22. 1]. Manutius accounts for the fact that neither of them bore their father's *praenomen* by supposing that they had been adopted by their uncle Appius, governor of Cilicia at this time.

3. **fuerat**: the tense implies that C. Claudius was dead. He was governor of Asia in 55–54 B.C., and on his return was condemned for extortion. The enquiry *quo ea pecunia pervenisset* was still going on in 51 B.C., when the younger Appius made some unfilial revelations concerning his father's conduct [Fam. viii. 8. 2]. C. Claudius had been on bad terms with Cicero [Ascon. in Scaur. 25].

5. **Nepos et Leo**: the first of these became the third accuser of Milo *de vi*, infr. 42, while the second was a *subscriptor* in the case *de ambitu*, ib. 54.

L. Herennius Balbus: probably the L. Herennius who was one of the accusers of Caelius [Cael. 25]. An enemy of Caelius was a natural ally of the Claudian house.

7. **Hypsaei**: he had lent gladiators to Clodius, and also paid rioters to attack the house of M. Lepidus [Schol. Bob. on § 5].

Q. Pompei: as implicated in the burning of the *curia*.

8. **M. Marcellus**: for his oratorical powers cf. Brut. 250. Dio, xl. 57, says that he was elected consul *διὰ τῶν λόγων δύναμιν*.

9. **M. Calidius**: an elegant speaker but deficient in fire. A fine appreciation of his oratorical style is given Brut. 274 sqq.

Faustus: this is the only occasion upon which any relations of Milo's aristocratic wife are mentioned as appearing on his behalf. At the trial of Scaurus in 54 B.C. Faustus made a great impression upon the jurors *humiliter et cum lacrimis locutus* [Ascon. in Scaur. 29].

11. **post recentem caedem**: infr. *postero die*.

12. **sub hoc titulo**: cf. Dig. xl. 2. 9 *Justa causa manumissionis est, si periculo vitae dominum servus liberaverit*.

13. **post diem trices.**: i.e. about Feb. 18. The sequence of events is not strictly observed here, since Asconius has previously been speaking of what happened in the intercalary month.

14. **M. †Caepionem**: I retain the MSS. reading, since it is difficult to see how *M. Ciceronem* (Manutius), *M. Caelium* (Halm), or *M. Catonem* (KS in Addendis) could have been thus corrupted. The simplest alteration would be to read *Q. Caepionem*, in which case M. Brutus would be meant. He is not unfrequently called Q. Caepio Brutus, e.g. Phil. x. 26. As he afterwards wrote a defence of

dixit, quod Milo se defenderit, Clodium Aricinos decuriones alloquendi gratia abisse, profectum cum sex ac XX servis; Milonem subito post horam quartam, senatu misso, cum servis amplius CCC armatis obviam ei contendisse et supra Bovillas inopinantem ⟨*in*⟩ itinere aggressum; ibi P. Clodium tribus vulneribus acceptis Bovillas perlatum; tabernam in quam perfugerat expugnatam a Milone; semianimem Clodium extractum ..... in via Appia occisum esse anulumque eius ei morienti extractum; deinde Milonem, cum sciret in Albano parvolum filium Clodi, venisse ad villam, et cum puer ante subtractus esset, ex servo Halicore quaestionem ita habuisse, ut eum articulatim consecarent; vilicum et duos praeterea servos iugulasse; ex servis Clodi qui dominum defenderant undecim esse interfectos, Milonis duos solos saucios factos esse: ob quae Milonem postero die XII servos, qui maxime operam navassent, manu misisse populoque tributim singula milia aeris ad defendendos de se rumores dedisse. Milo misisse ad Cn. Pompeium dicebatur, qui Hypsaeo summe stude-
37 bat, quod fuerat eius quaestor, desistere | se petitione consulatus, si ita ei videretur; Pompeius respondisse nemini se neque petendi neque desistendi auctorem esse, neque populi Romani potestatem aut consilio aut sententia interpellaturum. Deinde ⟨*per*⟩ C. Lucilium, qui propter M. Ciceronis familiaritatem amicus erat Miloni, egisse quoque dicebatur, ne se de hac re consulendo invidia oneraret.

Inter haec cum crebesceret rumor Cn. ⟨*Pompeium*⟩ creari dictatorem oportere neque aliter mala civitatis sedari posse, visum est optimatibus tutius esse eum consulem sine collega creari, et cum tractata ea res esset in senatu, facto in M. Bibuli

1. se defenderit, Rinkes: *sic se defenderet* * * * *et.*

Milo, he would naturally speak on his behalf in the senate.

5. **tribus vulner.**: Cicero in § 86 speaks of one wound only, and says nothing of the attack upon the tavern.

9. **parvolum filium**: he is styled *puer* eight years afterwards in the correspondence between Antony and Cicero in 44 B.C. [Att. xiv. 13 A. B.]. Cf. § 87 *n.*

11. **quaestionem**: Asconius speaks as if Milo were as a *paterfamilias* conducting a *quaestio* upon his slaves before a *consilium* of his friends: cf. § 73 *n.*

18. **quaestor**: in the third Mithridatic war, during 66 B.C.: cf. Flacc. 20.

19. **se neque pet.**: the words bear the stamp of authenticity upon them. Pompey excelled in these 'ungenerous answers': see p. xxviii. 6.

21. **C. Lucilium**: sc. Hirrum, one of Pompey's *familiares*, see Willems, le Sénat, i. p. 520; cf. p. xix.

28. **in M. Bibuli sent.**: his proposal was supported by Cato. The *optimates* hoped, by giving Pompey an office with a constitutional title, to wean him from his desire to become dictator. Pompey was empowered to choose a colleague, should he desire one, after two months had passed [Plut. Pomp. 54].

sententiam S. C. Pompeius ab interrege Servio Sulpicio V Kal. Mart. mense intercalario consul creatus est statimque consulatum iniit. Deinde post diem tertium de legibus novis ferendis rettulit: duas ex S. C. promulgavit, alteram de vi, qua nominatim caedem in Appia via factam et incendium curiae et domum M. Lepidi interregis oppugnatam comprehendit, alteram de ambitu: poena graviore et forma iudiciorum breviore. Utraque enim lex prius testes dari, deinde uno die atque eodem et ab accusatore et a reo perorari iubebat, ita ut duae horae accusatori, tres reo darentur. His legibus obsistere M. Caelius tr. pl. studiosissimus Milonis conatus est, quod et privilegium diceret in Milonem ferri et iudicia praecipitari. Et cum pertinacius leges Caelius vituperaret, eo processit irae Pompeius, ut diceret, si coactus esset, se armis rem publicam defensurum. Timebat autem Pompeius Milonem seu timere se simulabat: plerumque non domi suae, sed in hortis manebat, idque ipsum in superioribus, circa quos etiam magna manus militum excubabat. Senatum quoque semel repente dimiserat Pompeius, quod diceret timere se adventum Milonis. Dein proximo senatu P. Cornificius ferrum

1. **Serv. Sulpicio**: he was rewarded for his services by election to the consulship for 51 B.C.

3. **post diem tertium**: =*die quarto*, i. e. *prid. Kal. Mart.*, Ascon. on § 14.

7. **poena graviore**: this applies to the law *de ambitu* as well as to that *de vi*. The penalties for bribery under the old Calpurnian law had been exclusion from office and from the senate, and a money fine. The *lex Tullia* of 63 B.C. added *δέκα ἐτῶν φυγή* to the existing penalties [Dio C. xxxvii. 29].

utraque . . . lex: it is generally assumed that these provisions extended to all the *quaestiones*, and that they were permanent: see Momms. iv. 325. The former statement is made by Dio C. xl. 52, but as he is unsupported his authority is hardly sufficient. It may well be an inference on his part. It seems more likely that the new regulations were peculiar to the two special *quaestiones*, and passed away with them: cf. Willems, Droit public, p. 318. The language of Cicero, Att. xiii. 19. 1 *scis enim dies illorum iudiciorum praestitutos fuisse*, implies that the system was not still in force. It is difficult to suppose that such trials as those described by Caelius [Fam. viii. 8] were conducted under the restrictions introduced by Pompey.

11. **privilegium**: against the provisions of the XII Tables: cf. Leg. iii. 44 *in privatos homines ferri noluerunt: id est enim privilegium*. A special inquiry into the case of Milo could, however, hardly be described as a breach of this statute. A precedent at any rate was furnished by the *rogatio* brought forward in 61 B.C. providing for the trial of Clodius *de incestu* by specially selected jurors. Such proceedings were characteristic of the period: cf. Tac. Ann. iii. 27.

16. **domi suae**: the house of Pompey at this time was close to the theatre bearing his name, being a sort of 'annexe' to it [*ὥσπερ ἐφόλκιόν τι*] Plut. Pomp. 40. It was situated in the neighbourhood of the *Circus Flaminius*, i.e. near the Campo di Fiori. Pompey built this house, which was a modest one, in 61 B.C., after his return from the Mithridatic war. Previously he had lived in one still more unpretending.

hortis: on the Pincio, and so outside the Pomoerium. For a description of such a 'park' cf. Middleton, ii. 242 sqq.

19. **P. Cornificius**: Willems, Sénat, i. 537, identifies him not improbably with

38 Milonem intra tunicam | habere ad femur alligatum dixerat; postulaverat ut femur nudaret, et ille sine mora tunicam levarat: tum M. Cicero exclamaverat omnia illi similia crimina esse quae in Milonem dicerentur alia.

Deinde ⟨*T.*⟩ Munatius Plancus tribunus plebis produxerat in contionem M. Aemilium Philemonem, notum hominem, libertum M. Lepidi, ⟨*qui*⟩ se dicebat pariterque secum quattuor liberos homines iter facientes supervenisse, cum Clodius occideretur, et ob id cum proclamassent, abreptos et perductos in villam Milonis per duos menses praeclusos fuisse; eaque res seu vera seu falsa magnam invidiam Miloni contraxerat. Itemque Munatius et Pompeius tribuni plebis in rostra produxerant triumvirum capitalem eumque interrogaverant, an Galatam Milonis servum caedes facientem deprehendisset. Ille dormientem in taberna pro fugitivo prehensum et ad se perductum esse responderat. Denuntiaverant tamen triumviro, ne servum remitteret: sed postera die Caelius tribunus plebis et ⟨*Q.*⟩ Manilius Cumanus collega eius ereptum e domo triumviri servum Miloni reddiderant. Haec, etsi nullam de his criminibus mentionem fecit Cicero, tamen quia ita compereram, putavi exponenda. Inter primos et Q. Pompeius et C. Sallustius et T. Munatius Plancus tribuni plebis inimicissimas contiones de Milone habebant, invidiosas etiam de Cicerone, quod Milonem tanto studio defenderet. Eratque maxima pars multitudinis [populi] infensa non solum
39 | Miloni, sed etiam propter invisum patrocinium Ciceroni. Postea Pompeius et Sallustius in suspicione fuerunt redisse in gratiam

9. perductos in villam Milonis per duos menses, vett. edd.: [*perductos*] *per duos menses in villa Milonis.*

the L. Cornificius who accused Milo in the subsidiary trial *de vi*, Ascon. 54. For the incident cf. § 66.

6. **M. Aemilium Philemonem**: see p. xxii. 2. Dr. Reid calls this story 'most absurd,' but I do not see why.

12. **triumvirum capitalem**: the *iii viri capitales* had the streets patrolled at night, one of their chief duties being to arrest runaway slaves. Thus Sosia in Plaut. Amph. 154 sqq. says:

qui hoc noctis solus ambulem,
Quid faciam nunc, si tresviri me in carcerem compegerint?
Inde cras e promptuaria cella depromar ad flagrum,
Nec causam liceat dicere mihi.

They could inflict summary punishment upon slaves, the usual spot being the *columna Maenia*. There is no evidence, however, to show that they could do more than rebuke a belated citizen: cf. Staatsr. ii. 597.

13. **Galatam**: this is a different story from that of the drunken slave, who wounded the *sacrificulus*, § 65, since the latter incident took place before Pompey became sole-consul: see Ascon. on § 67.

21. **Sallustius**: he had a feud with Cicero to prosecute, as well as the flogging to avenge, which he had received from Milo [p. xviii. 4]. He dubbed Cicero 'the

cum Milone ac Cicerone; Plancus autem infestissime perstitit, atque in Ciceronem quoque multitudinem instigavit. ⟨*Cn.*⟩ Pompeio autem suspectum faciebat Milonem, ad perniciem eius comparari vim vociferatus: Pompeiusque ob ea saepius queretur sibi quoque fieri insidias, et id palam, ac maiore manu se armabat. Dicturum quoque diem Ciceroni Plancus ostendebat, posteaquam Q. Pompeius idem meditatus erat. Tanta tamen constantia ac fides fuit Ciceronis, ut non populi a se alienatione, non Cn. Pompei suspicionibus, non periculo futurum ut sibi dies ad populum diceretur, non armis, quae palam in Milonem sumpta erant, deterreri potuerit a defensione eius: cum posset omne periculum suum et offensionem inimicae sibi multitudinis declinare, redimere autem Cn. Pompei animum, si paulum ex studio defensionis remisisset.

Perlata deinde lege Pompeia, in qua id quoque scriptum erat, ut quaesitor suffragio populi ex iis, qui consules fuerant, crearetur, statim comitia habita, creatusque est L. Domitius Ahenobarbus quaesitor. Album quoque iudicum, qui de ea re iudicarent Pompeius tale proposuit, ut nunquam neque clariores viros neque sanctiores propositos esse constaret. Post quod statim nova lege Milo postulatus ⟨*est*⟩ a duobus | Appiis Claudiis adulescentibus iisdem, a quibus antea familia eius fuerat postulata, itemque de ambitu ab iisdem Appiis, et praeterea a C. *A*teio et L. Corni-

23. praeterea: add. ⟨*de vi*⟩. C. Ateio, scripsi (*c. ceteio* codd.): *Q. Patulcio.*

Romulus from Arpinum' [Quintil. ix. 3. 89]. In his Catiline, however, in spite of their quarrel, he treats Cicero with conspicuous fairness. Sallust was not so deeply compromised as Rufus and Plancus, not having been implicated in the burning of the *curia*, and probably on this account was not condemned with them. His expulsion from the senate in B. C. 50, nominally on a charge of immorality, may show that his riotous conduct had not been forgiven.

1. **Plancus**: see pp. xxviii sq.

6. **dicturum diem**: cf. § 36 *n.*

15. **perlata . . . lege Pomp.**: according to the provisions of the *lex Caecilia Didia* a *promulgatio trinum nundinum* was necessary, i. e. a space of seventeen, or, according to Mommsen, of twenty-four days. As the *promulgatio* took place *prid. Kal. Mart.* the earliest date for bringing forward the *rogatio* would be either March 16 or 23. The tribunes Rufus and Sallust *de lege ferenda populum hortati sunt* [Ascon. on § 47], so that it appears to have been brought before the assembly of the *plebs*.

16. **quaesitor**: the words of Cicero, § 22, imply that Domitius was the nominee of Pompey, who probably presided.

18. **album**: cf. Bruns, Fontes, p. 59, in tabula, *in albo*, atramento scriptos, patrem, tribum, cognomenque, tributimque discriptos habeto.

23. **et praeterea a C. Ateio**: Milo was accused by two *factiones* [Q. F. iii. 1. 15], sc. the *Appii fratres*, and the other two persons here named. A *divinatio* took place, and resulted in favour of the *Appii*. After this rebuff L. Cornificius accused Milo on a minor charge, his *subscriptor* on that occasion being Q. Patulcius [Ascon. 54]. The name of his supporter at this

ficio, de sodaliciis etiam a P. Fulvio Nerato. Postulatus autem erat et de sodaliciis et de ambitu ea spe, ⟨*quod*⟩ primum iudicium de vi futurum apparebat, quo eum damnatum iri confidebant nec postea responsurum.

Divinatio de ambitu accusatorum facta est quaesitore A. Torquato, atque ambo quaesitores, Torquatus et Domitius, prid. Non. April. reum adesse iusserunt. Quo die Milo ad Domiti tribunal venit, ad Torquati amicos misit; ibi postulante pro eo M. Marcello obtinuit, ne prius causam de ambitu diceret, quam de vi iudicium esset perfectum. Apud Domitium autem quaesitorem maior Appius postulavit a Milone servos exhiberi numero IIII et L, et cum ille negaret eos qui nominabantur in sua potestate esse, Domitius ex sententia iudicum pronuntiavit, ut ex servorum suorum numero accusator quot vellet ederet. Citati deinde testes secundum legem quae, ut supra diximus, iubebat, ut prius quam causa ageretur testes per triduum audirentur, dicta eorum iudices consignarent, quarta die adesse omnes [in diem

17. consignarent, Manutius: *confirmarent*. [in diem posterum] seclusit Eberhard.

time is uncertain. The MSS. give *c. ceteio*, from which I conjecture *C. Ateio*, i. e. C. Ateius Capito, who had been tribune in 55 B.C. Another simple correction is *C. Cethego* [Jordan], in which case a person otherwise unknown is referred to. The passage has been gravely corrupted by most editors from a theory that the subsidiary charge brought by L. Cornificius and Q. Patulcius [Ascon. l. c.], is here also alluded to. It is therefore usual to insert *de vi* after *praeterea*, although there is no mark of a *lacuna* in the MSS., and to emend *c. ceteio* to *Q. Patulcio*, two very violent changes. A difficulty is then created by the mention of the *divinatio de ambitu* which follows. Between whom was this? Zumpt conjectures that Valerius Leo and Cn. Domitius, who were the *subscriptores* of Appius *maior*, were originally rival accusers, and that after the *divinatio* the younger Appius withdrew in their favour (p. 550). It is, however, incredible that Asconius would have said *divinatio . . . facta est* without mentioning the rival accusers. Some editors, seeing this difficulty, (i) mark a lacuna after *praeterea a*, supposing the names of the rival accusers *de ambitu* to have dropped out, (ii) insert *de vi*, and (iii) emend *c. ceteio* to *Q. Patulcio*. This cannot be described as gentle surgery!

1. **sodaliciis**: under the provisions of the *lex Licinia Crassi*.

Fulvio Nerato: a person of this name is styled *lectissimus homo*, Flacc. 46. From Ascon. 54 we may gather that his accusation was prompted by a desire to gain the *praemium legis*.

5. **A. Torquato**: sc. A. Manlius Torquatus. He was a Pompeian in the war, and afterwards was in exile at Athens. Fam. vi. 1–4 are addressed to him.

13. **ex sententia iudicum**: the *iudices* act as *consilium* to the *quaesitor*: cf. Att. i. 16. 5 refertur ad *consilium*, una sola *sententia* praesidium non desideravit.

15. **deinde**: i. e. on the same day, after the *servorum postulatio* had taken place.

supra: Ascon. 37.

17. **consignarent**: cf. Ascon. on § 71 post audita et *obsignata* testium verba. I accept the correction of Manutius. The MSS. *confirmarent* is generally explained to mean 'vouch for' or 'declare to be correctly taken down.' Mommsen thinks that the jurors were themselves allowed to 'support' the evidence by their own testimony, which would be very unusual.

quarta die adesse: these words are to be taken together. For the construction cf. Ascon. in Cornel. 59 cum P. Cassius praetor *decimo die*, ut mos est, *adesse* iussisset. It is probable that *in diem pos-*

posterum] iuberentur ac coram accusatore ac reo pilae, in quibus nomina iudicum inscripta essent, aequarentur; dein rursus postera die sortitio iudicum fieret unius et LXXX: qui numerus cum sorte obtigisset, ei protinus sessum irent; tum ad dicendum accusator duas horas, reus tres haberet, resque eodem die illo iudicaretur; prius autem quam sententiae ferrentur, quinos ex singulis ordinibus accusator, totidem reus reiceret, ita ut | numerus iudicum relinqueretur qui sententias ferrent quinqua- 41
ginta et unus.

Primo die datus erat in Milonem testis ⟨*C.*⟩ Causinius Schola, qui se cum P. Clodio fuisse, cum is occisus esset, dixit, atrocitatemque rei factae quam maxime potuit auxit. Quem cum interrogare . . . . . Marcellus coepisset, tanto tumultu Clodianae multitudinis circumstantis exterritus est, ut vim ultimam timens in tribunal a Domitio reciperetur. Quam ob causam Marcellus et ipse Milo a Domitio praesidium imploraverunt. Sedebat eo tempore Cn. Pompeius ad aerarium, perturbatusque erat eodem illo clamore: itaque Domitio promisit se postero die cum praesidio descensurum, idque fecit. Qua re territi Clodiani silentio verba testium per biduum audiri passi sunt. Interrogaverunt

4. obtigisset, KS in Addendis: *contigisset.*

terum is a gloss upon *quarta die.* Asconius is, however, quoting the terms of the law, and the redundancy may be due to the pleonasm often found in legal formulas. For the chronology of the trial see p. 127.

omnes: this word is held to imply that only a portion of the jurors had previously been present, it having been free to them to stay away. In support of this view the words of Caesar are quoted, B. C. iii. 1. 4 *iudicia aliis audientibus iudicibus, aliis sententiam ferentibus, singulis diebus erant perfecta.* This, however, is the description of a hostile critic, in which fact is sacrificed to epigram. Also, Caesar is not speaking of Milo's trial, bnt of the minor persons condemned *de ambitu.* There may have been irregularities in the conduct of these cases. The suggestion that some of the jurors were wanted for other cases, and could not be present, hardly applies to Milo's trial. I should doubt whether any other legal business was transacted during this. *Omnes* probably implies nothing more than that all the jurors had to attend, whether they were to be empanelled or not.

2. **aequarentur**: to see that they were exactly alike: cf. Div. i. 34 oracula . . . quae *aequatis sortibus* ducuntur, and Ascon. in Cornel. 70 dum sitella defertur, dum *aequantur sortes*, dum sortitio fit.

postera die = *quarta die*, supr.

10. **C. Causinius Schola**: cf. Ascon. on § 46.

12. **interrogare**: sc. 'cross-examine.' The Schol. Bob. in the Argument to the speech *de aere alieno Milonis* points out that besides this, the proper sense of the word, it may also be used (i) in the phrase *legibus interrogare*, i. e. to ask the person incriminated if he had fulfilled the requirements of the laws; (ii) when a senator who had already spoken asked for leave to speak again in order to refute a false statement which had been made. He then proceeded to reply to his antagonist [*interrogare*, hoc est, illum redarguere.]

16. **praesidium**: cf. Att. i. 16. 5.

17. **ad aerarium**: this was part of the temple of Saturn, *aedem vero Saturni aerarium Romani esse voluerunt*, Macrob. Sat. i. 8: cf. § 2 *n.* and p. x.

eos M. Cicero et M. Marcellus ⟨*et*⟩ Milo ipse. Multi ex iis, qui Bovillis habitabant, testimonium dixerunt de eis, quae ibi facta erant: coponem occisum, tabernam expugnatam, corpus Clodi in publicum extractum esse. Virgines quoque Albanae dixerunt mulierem ignotam venisse ad se, quae Milonis mandato votum solveret, quod Clodius occisus esset. Ultimae testimonium dixerunt Sempronia, Tuditani filia, socrus P. Clodi, et uxor Fulvia, et fletu suo magnopere eos qui assistebant commoverunt. Dimisso circa horam decimam iudicio T. Munatius pro contione populum adhortatus est, ut postero die frequens adesset et elabi Milonem non pateretur iudiciumque et dolorem suum ostenderet euntibus ad tabellam ferendam. Postera die, qui fuit iudici summus a. d. VII Idus Aprilis, clausae fuerunt tota urbe tabernae; praesidia in foro et circa omnis fori aditus Pompeius disposuit; ipse pro aerario ut pridie consedit saeptus delecta manu militum. Sortitio deinde iudicum a primo die facta est:
42 post tantum silentium toto foro fuit, quantum esse in aliquo foro posset. Tum intra horam secundam accusatores coeperunt dicere Appius maior et M. Antonius et P. Valerius Nepos. Usi sunt ex lege horis duabus.

Respondit his unus M. Cicero: et cum quibusdam placuisset ita defendi crimen, interfici Clodium pro re publica fuisse (quam formam M. Brutus secutus est in ea oratione, quam pro Milone composuit et edidit, quasi egisset), Ciceroni id non placuit, quasi qui bono publico damnari, idem etiam occidi indemnatus posset. Itaque cum insidias Milonem Clodio fecisse posuissent accusatores, quia falsum id erat—nam forte illa rixa commissa fuerat—,

13. VII, scripsi: *VI.*

3. **coponem**: a detail not previously mentioned.

4. **Virgines Albanae**: probably Vestals. Alba Longa was the ancient seat of the worship of Vesta. Dr. Reid suggests that priestesses of the *Bona Dea* are here referred to.

6. **ultimae**: it seems singular that two witnesses for the prosecution should have been heard last. Asconius does not mention any evidence given for the defence.

7. **Tuditani filia**: see p. xxvii. 2.

19. **M. Antonius**: Richter-Eb. remark 'not the subsequent triumvir,' but give no reason for their opinion. The fact that Cicero does not mention this among the misdeeds of Antony in the second Philippic is not convincing. The prominent accuser was Appius *maior*, Ascon. 54, and the part played by the other two a small one. Abeken, p. 182. 2, identifies this person with the triumvir, remarking that no other M. Antonius is known to have lived at this period. Antony was already an admirer of Fulvia, and had once been a friend of Clodius, Phil. ii. 48. The reference to the attempt of Antony upon Clodius in §§ 40,41 would have special point if he were now one of the accusers.

Valerius Nepos: cf. Ascon. 35.

23. **M. Brutus**: see p. xxx. 1. His

Cicero adprehendit et contra Clodium Miloni fecisse insidias disputavit, eoque tota oratio eius spectavit. Sed ita constitit ut diximus, nec utrius consilio pugnatum esse eo die, verum et forte occurrisse et ex rixa servorum ad caedem perventum. Notum tamen erat utrumque mortem alteri saepe minatum esse, et sicut suspectum Milonem maior quam Clodi familia faciebat, ita expeditior et paratior ad pugnam Clodianorum quam Milonis fuerat. Cicero cum incipere dicere, exceptus ⟨*est*⟩ acclamatione Clodianorum, qui se continere ne metu quidem circumstantium militum potuerunt. Itaque non ea qua solitus erat constantia dixit Manet autem illa quoque excepta eius oratio : scripsit vero hanc quam legimus ita perfecte, ut iure prima haberi possit.

ENARRATIO.

Vers. A Primo L.

(§ 3.) Unum genus est adversum infestumque nobis et cetera.

Ita ut in causae expositione diximus, Munatius Plancus 43
pridie pro contione populum adhortatus erat, ne pateretur elabi Milonem.

Ver. A Primo CC.

(§ 12.) Declarant huius ambusti tribuni plebis illae intermortuae contiones, quibus quotidie meam potentiam invidiose criminabatur.

T. Munatius Plancus et Q. Pompeius Rufus tribuni pl., de quibus in argumento huius orationis diximus, cum contra Milonem Scipioni et Hypsaeo studerent, contionati sunt eo ipso tempore plebemque in Milonem accenderunt, quo propter Clodi corpus curia incensa est, nec prius destiterunt, quam flamma eius incendii fugati sunt e contione. Erant enim tunc

speech served the same purpose as an article in a modern review.

5. **utrumque alteri**: see pp. xviii sq.

11. **excepta**: sc. by shorthand writers: cf. Div. ii. 50 locutum multis audientibus, qui omnia verba eius *exceperint*, litterisque mandarint; Quintil. vii. 2. 24 neglegentia *excipientium* in quaestum notariorum; Suet. Tit. 3 notis *excipere* velocissime, and § 33 *n.* For the employment of *notarii* to take down speeches in the senate cf. Plut. Cat. min. 23.

rostra non eo loco quo nunc sunt, sed ad comitium, prope iuncta curiae. Ob hoc T. Munatium ambustum tribunum appellat; fuit autem paratus ad dicendum.

PAULO POST.

(§ 13.) Cur igitur incendium curiae, oppugnationem aedium M. Lepidi, caedem hanc ipsam contra rem publicam senatus factam esse decrevit?

Post biduum medium quam Clodius occisus erat, interrex primus proditus est M. Aemilius Lepidus. Non fuit autem moris ab eo, qui primus interrex proditus erat, comitia haberi. Sed Scipionis et Hypsaei factiones, quia recens invidia Milonis erat, cum contra ius postularent, ut interrex ad comitia consulum creandorum descenderet, idque ipse non faceret, domum eius per omnes interregni dies (fuerunt autem ex more quinque) obsederunt. Deinde omni vi ianua expugnata et imagines maiorum deiecerunt et lectulum adversum uxoris eius Corneliae, cuius castitas pro exemplo habita est, fregerunt, itemque telas, quae ex vetere more in atrio texebantur, diruerunt. Post quae supervenit Milonis manus et ipsa postulans comitia; cuius adventus fuit saluti Lepido: in se enim ipsae conversae sunt factiones inimicae, atque ita oppugnatio domus interregis omissa est.

44 PAULO POST.

(§ 14.) Quod si per furiosum illum tribunum pl. senatui quod sentiebat perficere licuisset, novam quaestionem nullam haberemus. Decernebat enim, ut veteribus legibus, tantummodo extra ordinem, quaereretur. Divisa sententia est postulante nescio quo.—Sic reliqua auctoritas senatus empta intercessione sublata est.

Quid sit dividere sententiam, ut enarrandum sit, vestra aetas, filii, facit.

1. **eo loco quo nunc sunt**: the *rostra* were rebuilt on the west side of the Forum by Caesar in 44 B.C. For a description of them see Middleton, i. 252 sqq. Under the empire these *rostra* were called *vetera*, e.g. Suet. Oct. 130, to distinguish them from the new *rostra* affixed to the ἡρῷον of Julius Caesar, built by Augustus.

16. **lectulum**: cf. Hor. Ep. i. 1. 87 *lectus genialis in aula est.* We know from several sources that the *imagines* were also kept here: e.g. Mart. ii. 70. 6, Juv. viii. 19.

Cum aliquis in dicenda sententia duas pluresve res complectitur, si cui non omnes eae probantur, postulat ut dividatur, id est de rebus singulis referatur. Forsitan nunc hoc quoque velitis scire, qui fuerit, qui id postulaverit. Quod non fere traditur: non enim ei, qui hoc postulat, oratione longa utendum ac ne consurgendum quidem utique est; multi enim sedentes hoc unum verbum pronuntiant Divide: quod cum auditum est, liberum ⟨*est*⟩ ei, qui facit relationem, dividere. Sed ego, ut curiosius aetati vestrae satisfaciam, Acta etiam totius illius temporis persecutus sum; in quibus cognovi pridie Kal. Mart. S. C. esse factum, P. Clodi caedem et incendium curiae et oppugnationem aedium M. Lepidi contra rem p. factam; ultra relatum in Actis illo die nihil; postero die, id est Kal. Mart., ⟨*T.*⟩ Munatium in contione exposuisse populo quae pridie acta erant in senatu: in qua contione | haec dixit ad verbum: Cum Hor- 45
tensius dixisset, ut extra ordinem quaereretur apud quaesitorem; aestimaret futurum, ut, cum pusillum dedisset dulcedinis, largiter acerbitatis devorarent: adversus hominem ingeniosum non ingenio usi sumus; invenimus Fufium, qui diceret 'Divide'; reliquae parti sententiae ego et Sallustius intercessimus. Haec contio, ut puto, explicat, et quid senatus decernere voluerit, et quis divisionem postulaverit, et quis intercesserit et cur. Illud vos meminisse non dubito per Q. Fufium illo quoque tempore quo de incesto P. Clodi actum est factum, ne a senatu asperius decerneretur.

De L. Domitio dicit:

(§ 22.) Dederas enim, quam contemneres populares insanias, iam ab adulescentia documenta maxima. Constantiam L. Domiti quam in quaestura praestitit signi-

17. aestimaret, Rinkes: *aestimare.* dedisset, Rinkes: *edissent.*
30. quaestura, Manutius: *praetura.*

8. **ei, qui facit**: Pompey, who was presiding on this occasion, Asc. 37, might have declined to grant the request.

9. **aetati vestrae**: so supr. *vestra aetas.* Only those who had reached the age of twenty-five years were allowed to attend debates in the senate.

17. **pusillum dedisset**: the *dulcedo* consists in the concession, *ut extra ord. quaeretur*, the *acerbitas* in the disappointment, when Milo is snatched from their grasp. 'The sugar-plum will prove a bitter pill.' The passage is well explained by Rinkes, Mnem. x. 221 sqq.

18. **largiter**: cf. Plaut. Rud. 1315 *largiter mercedis indipiscar.*

19. **ingeniosum**: cf. Div. in Caecil. 44 sq.

24. **illo quoque tempore**: cf. § 14 *n.*

30. **quaestura**: § 22 *n.*

46 ficat. | Nam eo tempore, cum C. Manilius tribunus plebis subnixus libertinorum et servorum manu perditissimam legem ferret, ut libertinis in omnibus tribubus suffragium esset, idque per tumultum ageret et clivum Capitolinum obsideret, discusserat perruperatque coetum Domitius ita, ut multi Manilianorum interficerentur. Quo facto et plebem infimam offenderat et senatus magnam gratiam inierat.

(§ 32.) Itaque illud Cassianum 'cui bono fuerit' in his personis valeat.

L. Cassius fuit, sicut iam saepe diximus, summae vir severitatis. ⟨*Is*⟩ quotiens quaesitor iudici alicuius esset, in quo quaerebatur de homine occiso, suadebat atque etiam praeibat iudicibus hoc, quod Cicero nunc admonet, ut quaereretur, cui bono fuisset perire eum de cuius morte quaeritur. Ob quam severitatem, quo tempore Sex. Peducaeus tribunus plebis criminatus est L. Metellum pontificem max. totumque collegium pontificum male iudicasse de incesto virginum Vestalium, quod unam modo Aemiliam damnaverat, absolverat autem duas Marciam et Liciniam, populus hunc Cassium creavit qui de eisdem virginibus quaereret: isque et utrasque eas et praeterea complures alias nimia etiam, ut existimatio est, asperitate usus damnavit.

(§ 33.) Et aspexit me illis quidem oculis, quibus tunc solebat, cum omnibus omnia minabatur. Movet me quippe lumen curiae!

Hic est Sex. Clodius, quem in argumento huius orationis diximus corpus Clodi in curiam intulisse et ibi cremasse eoque incenso curiam conflagrasse; ideo lumen curiae dicit.

(§ 37.) Quando illius postea sica illa, quam a Catilina acceperat, conquievit? Haec intenta nobis est, huic ego obici vos pro me non sum passus, haec insidiata Pompeio est.

8. cui bono fuerit, scripsi: *iudicium*. 26. intulisse, KS in Addendis: *contulisse*.
29. intenta, codd.: *intentata*.

8. **cui bono fuerit**: I regard *iudicium* as a supra-lineal gloss to *Cassianum*, which has expelled *cui bono fuerit*: cf. § 32 *n*. The sense which *iudicium* would have here, sc. 'rule' or 'test,' is one for which I have not found a parallel. [Mr. Purser ingeniously suggests that *indicium* was the original gloss: cf. Quintil. v. 9. 9 *signum* vocatur, ut dixi, σημεῖον, quamquam id quidam *indicium*, quidam *vestigium* nominaverunt, per quod alia res intelligitur ut per sanguinem caedes.]

10. **iam saepe diximus**: 'in orationibus quae aetatem tulerunt Cassii fit mentio in Rosciana [84], Cluentiana [107], Sestiana [103]' KS.

15. **quo tempore**: sc. 113 B. C. The story is frequently referred to, e. g. Plut. Quaest. Rom. p. 284 b.

Quod dicit intenta nobis est et obici vos pro me non sum passus, | manifestum est pertinere ad id tempus, quo post 47
rogationem a P. Clodio in eum promulgatam urbe cessit. Quare dicat insidiata Pompeio est, fortassis quaeratis. Pisone et Gabinio coss. pulso Cicerone in exilium, cum III Idus Sextiles Pompeius in senatum venit, dicitur servo P. Clodi sica excidisse, eaque ad Gabinium consulem delata dictum est servo imperatum a P. Clodio, ut Pompeius occideretur. Pompeius statim domum rediit ⟨*et*⟩ ex eo domi ⟨*se*⟩ tenuit. Obsessus est etiam a liberto Clodi Damione, ut ex Actis eius ⟨*anni*⟩ cognovi, in quibus XV Kal. Sept. L. Novius tribunus plebis, collega Clodi, cum Damio adversum ⟨*L.*⟩ Flavium praetorem appellaret tribunos et tribuni de appellatione cognoscerent, ita sententiam dixit: Et⟨*si ab*⟩ hoc apparitore P. Clodi vulneratus sum, et hominibus armatis praesidiis dispositis a re publica remotus Cn. Pompeius obsessus est: cum appeller, non utar eius exemplo, quem vitupero, et iudicium tollam, et reliqua de intercessione.

Haec viam Appiam monumentum nominis sui nece Papiri cruentavit.

Pompeius post triumphum Mithridaticum Tigranis filium in catenis deposuerat apud Flavium senatorem: qui postea cum esset praetor eodem anno, quo tribunus plebis Clodius, petiit ab eo Clodius super cenam, ut Tigranem adduci iuberet, et eum videret. Adductum collocavit in convivio, dein Flavio non reddidit Tigranem; domi suae habuit extra catenas nec repetenti Pompeio reddidit. Postea in navem deposuit, et cum profugeret ille, tempestate delatus est Antium. Inde | ut deduceretur ad 48
se, Clodius Sex. Clodium, de quo supra diximus, ⟨*misit*⟩. Qui cum reduceret, Flavius quoque re cognita ad eripiendum Tigranem profectus est. Ad quartum lapidem ab urbe pugna facta est, in qua multi ex utraque parte ceciderunt, plures tamen ex Flavi, inter quos et M. Papirius eques Romanus, publicanus, familiaris Pompeio. Flavius sine comite Romam vix perfugit.

1. intenta codd. SM: *intentata.* 16. remotus Cn. Pompeius obsessus, scripsi: *remotus* [*sum*] *Cn. Pompeius obsessus*⟨*que*⟩ *est.* 30. eripiendum, Bücheler: *deripiendum.*

11. **XV Kal.**: Rinkes proposes to insert *est* before these words, marking '*XV . . . intercessione*' as a quotation from the *Acta.* The description, however, of Novius as *collega Clodi* does not sound like an official citation.

Haec eadem longo intervallo conversa rursus est in me: nuper quidem, ut scitis, ⟨*me*⟩ ad Regiam paene confecit.

Quo die periculum hoc adierit, ut Clodius *eum ad* Regiam paene confecerit, nusquam inveni; non tamen adducor ut putem Ciceronem mentitum, praesertim cum adiciat ut scitis. Sed videtur mihi loqui de eo die, quo consulibus Domitio et Messalla, qui praecesserant eum annum, cum haec oratio dicta est, inter candidatorum Hypsaei et Milonis manus in via Sacra pugnatum est, multique ex Milonianis ex improviso ceciderunt. De cuius diei periculo suo ut putem loqui eum, facit et locus pugnae (nam in Sacra via traditur commissa, in qua est Regia), et quod adsidue simul erant cum candidatis suffragatores, Milonis Cicero, Hypsaei Clodius.

(§ 38.) Potuitne L. Caecili, iustissimi fortissimique praetoris, obpugnata domo?

L. Caecilius Rufus, de quo dicitur, fuit ⟨*praetor*⟩ P. Lentulo Spinthere Q. Metello Nepote coss., quo anno Cicero restitutus est. Is cum faceret ludos Apollinares, ita infima coacta multitudo annonae caritate tumultuata est, ut omnes, qui in theatro spectandi causa consederant, pellerentur. De oppugnata domo
49 nusquam adhuc | legi; Pompeius tamen cum defenderet Milonem apud populum, de vi accusante Clodio, obiecit, ut legimus apud Tironem libertum Ciceronis in libro IIII de vita eius, oppressum ⟨*a*⟩ Clodio L. Caecilium praetorem.

Paulo Post.

(§ 45.) At quo die? quo, ut ante dixi, fuit insanissima contio, ab ipsius mercennario tribuno plebis concitata.

Hoc significat eo die quo Clodius occisus est contionatum esse mercennarium eius tribunum plebis. Sunt autem contionati eo die, ut ex Actis apparet, C. Sallustius et Q. Pompeius, utrique et inimici Milonis et satis inquieti. Sed videtur mihi Q. Pompeium significare; nam eius seditiosior fuit contio.

10. Milonianis, Gronovius: *Milonis*.

11. **locus pugnae**: see Middleton, i. 304 sqq.
20. **tumultuata**: cf. Att. iv. 1. 6.
22. **Pompeius**: cf. §§ 40, 68.
24. **Tironem**: this work is cited by Plutarch, Cic. 41, 49.

(§ 46.) Dixit C. Causinius *Schola* Interamnanus, familiarissimus *et idem* comes Clodi, P. Clodium illo die in Albano mansurum fuisse.

Hic fuit Causinius, *apud* quem Clodius mansisse Interamnae videri volebat qua nocte deprehensus est in Caesaris domo, cum ibi in operto virgines pro populo Romano sacra facerent.

Paulo Post.

(§ 47.) Scitis, iudices, fuisse, qui in hac rogatione suadenda diceret Milonis manu caedem esse factam, consilio vero maioris alicuius. Me videlicet latronem et sicarium abiecti homines et perditi describebant. 50

Q. Pompeius Rufus et C. Sallustius tribuni fuerunt quos significat. Hi enim primi de ea lege ferenda populum hortati sunt et dixerunt a manu Milonis occisum esse Clodium, consilio vero maioris alicuius.

(§ 49.) Atqui ut illi nocturnus adventus vitandus fuit, sic Miloni, cum insidiator esset, si illum ad urbem noctu accessurum sciebat, subsidendum et cetera.

Via Appia est prope urbem monumentum Basili, qui locus latrociniis fuit perinfamis, quod ex aliis quoque multis intellegi potest.

(§ 55.) Comites Graeculi quocumque ibat, etiam cum in castra Etrusca properabat.

Saepe obiecit Clodio Cicero socium eum coniurationis Catilinae fuisse; quam rem nunc quoque reticens ostendit. Fuerat enim opinio, ut Catilina ex urbe profugerat in castra Manli centurionis, qui tum in Etruria ad Faesulas exercitum ei comparabat, Clodium subsequi eum voluisse et coepisse, tum dein mutato consilio in urbem redisse.

(§ 67.) Non iam hoc Clodianum crimen timemus, sed tuas, Cn. Pompei—te enim appello, et ea voce, ut me

4. **apud quem**: Asconius, as usual, gives a piece of recondite information. Causinius is not mentioned elsewhere as the witness to the *alibi* of Clodius. For the *scholium* founded upon his note, which has made its way into all the MSS. except H, see § 46 *n.* It is not the custom of Asconius to merely paraphrase the text, as would be the case if the omission of *cuius . . . Romae* were due to accident.

19. **Basili**: cf. Att. vii. 9. 1 (*litteras*) . . . *L. Quinctius, familiaris meus, cum ferret, ad bustum Basili volneratus et spoliatus est.*

exaudire possis—tuas, inquam, suspiciones perhorrescimus.

Diximus in argumento orationis huius Cn. Pompeium simulasse timorem, seu plane timuisse Milonem, et ideo ne domi quidem suae, sed in hortis superioribus ante iudicium mansisse, ita ut villam quoque praesidio militum circumdaret. Q. Pompeius Rufus tribunus plebis, qui fuerat familiarissimus omnium P. Clodio
51 et sectam eam | sequi se palam profitebatur, dixerat in contione paucis post diebus quam Clodius erat occisus: Milo dedit quem in curia cremaretis: dabit, quem in Capitolio sepeliatis. In eadem contione idem dixerat—habuit enim eam a. d. VIII Kal. Febr.—cum Milo pridie venire ad Pompeium in hortis eius voluisset, Pompeium ei per hominem propinquum misisse nuntium, ne ad se veniret. Prius etiam quam Pompeius III consul crearetur, tres tribuni, Q. Pompeius Rufus, C. Sallustius Crispus, T. Munatius Plancus, cum quotidianis contionibus suis magnam invidiam Miloni propter occisum Clodium excitarent, produxerant ad populum Cn. Pompeium et ab eo quaesierant, num ad eum delatum esset illius quoque ⟨*rei*⟩ indicium, suae vitae insidiari Milonem. Responderat Pompeius: Licinium quendam de plebe sacrificulum, qui solitus esset familias purgare, ad se detulisse servos quosdam Milonis itemque libertos comparatos esse ad caedem suam, nomina quoque servorum edidisse; ⟨*se*⟩ ad Milonem misisse, ut eos in potestate sua haberet; a Milone responsum esse, ex iis servis quos nominasset partim neminem se unquam habuisse, partim manumisisse; dein, cum Licinium apud se haberet, ... Lucium quendam de plebe ad corrumpendum indicem venisse; qua re cognita in vincla eum publica esse coniectum. Decreverat enim senatus [ut] cum interrege et tribunis plebis Pompeius daret operam, ne quid res publica detrimenti caperet. Ob has suspiciones Pompeius in superioribus hortis se continuerat; deinde ex S. C. dilectu per Italiam habito cum redisset,
52 venientem ad se Milonem unum | omnium non admiserat. Item cum senatus in porticu Pompeii haberetur, ut Pompeius posset

12. pridie, Manutius: add. *id est* VIIII *Kal. Febr.*

10. **dabit**: sc. *Pompeium.*
13. **hominem propinquum**: sc. C. Lucilius Hirrus, Ascon. 37.
35. **posset**: as proconsul, Pompey could

interesse, unum eum excuti prius quam in senatum intraret iusserat. Hae sunt suspiciones quas se Cicero dicit pertimescere.

(§ 71.) Quid enim minus illo dignum quam cogere, ut vos eum condemnetis, in quem animadvertere ipse et more maiorum et suo iure posset? sed praesidio esse et cetera.

Idem T. Munatius Plancus, ut saepe diximus, post audita et obsignata testium verba dimissosque interim iudices vocata contione cohortatus erat populum, ut clusis tabernis postero die ad iudicium adesset nec pateretur elabi Milonem.

(§ 87.) Incidebantur iam domi leges, quae nos servis nostris addicerent.

Significasse iam puto nos fuisse inter leges P. Clodi, quas ferre proposuerat, eam quoque, qua libertini, qui non plus quam in ⟨*IIII*⟩ tribubus suffragium ferebant, possent in rusticis quoque tribubus, quae propriae ingenuorum sunt, ferre.

(§ 88.) Senatus, credo, praetorem eum circumscripsisset. Ne cum solebat quidem id facere, in privato eodem hoc aliquid *profecerat*.

Significat id tempus quo P. Clodius, *cum* adhuc quaestor designatus esset, *deprensus* est, cum intrasset eo, ubi sacrificium pro | populo Romano fiebat. Quod factum notatum erat *gravi* 53 S. C., decretumque extra ordinem *de ea re* iudicium fieret.

not enter Rome: cf. Dio C. xl. 50 ἔξω τοῦ πωμηρίου πρὸς τῷ θεάτρῳ αὐτοῦ . . . ἠθροίσθησαν.

10. **clusis tabernis**: cf. Ac. ii. 144 *ut seditiosi tribuni solent, occludi tabernas iubes?* Dom. 89, 90.

12. **iam**: 'probably when commenting upon the speech *de aere al. Milonis*, in which (iv. 1) the passage *nec suffragia dabis quibus ostentas*, occurs' KS.

15. **libertini**: these originally were under no disabilities. If they possessed land they voted in the tribes, and if qualified by *census*, in the various classes of the centuries. Appius Claudius, censor 312 B.C., put freedmen without land into the tribes, and then according to means into the corresponding centuries. His measures were reversed by Q. Fabius, censor 304 B.C., after which period their voting-power was diminished by a series of restrictions. In 169 B.C. they were only allowed to vote in one city tribe, the Esquiline, which was chosen by lot. This represented a compromise, since one censor, Ti. Sempronius Gracchus, wished to exclude them altogether. Sulpicius in 88 B.C. proposed to admit them to all the tribes. His measure was passed by Cinna in 84, but cancelled by Sulla. It was revived in 66 by Manilius, and now advocated by Clodius. See Mommsen, Staatsrecht, iii. i. 434–440.

21. **quaestor designatus**: Asconius appears to think that Clodius was censured by the senate, and an enquiry ordered, *before* he entered upon his office. He would, however, become *quaestor* on Dec. 5, the day after that on which the offence was in all probability committed: cf. § 88 *n.*

Ver. A Novis. CLX

quo loco inducit loquentem Milonem cum bonarum partium hominibus de meritis suis:

(§ 95.) Plebem et infimam multitudinem, quae P. Clodio duce fortunis vestris imminebat, eam, quo tutior esset vestra vita, se ⟨*suam fecisse commemorat, ut non modo virtute*⟩ flecteret, sed etiam tribus suis patrimoniis deleniret.

Puto iam supra esse dictum Milonem ex familia fuisse Papia, deinde adoptatum esse ab T. Annio, avo suo materno. Tertium patrimonium videtur significare matris; ⟨*aliud*⟩ enim quod fuerit, non inveni.

Peracta utrimque causa singuli quinos accusator et reus senatores, totidem equites ⟨*et*⟩ tribunos aerarios reiecerunt, ita ut unus et L sententias tulerint. Senatores condemnaverunt XII, absolverunt VI; equites condemnaverunt XIII, absolverunt IIII; tribuni aerarii condemnaverunt XIII, absolverunt III. Videbantur non ignorasse iudices inscio Milone initio vulneratum esse Clodium, sed compererant post quam vulneratus esset iussu Milonis occisum. Fuerunt qui crederent M. Catonis sententia eum esse absolutum; nam et bene cum re publica actum esse morte P. Clodi non dissimulaverat et studebat in petitione consulatus Miloni et reo adfuerat. Nominaverat quoque eum Cicero praesentem et testatus erat audisse eum a M. Favonio ante diem
54 tertium quam facta caedes erat, Clodium dixisse periturum esse eo triduo Milonem . . . . . Sed Milonis quoque notam audaciam *remo*veri a re p*ublica* utile visum est. Scire t*amen* ne*mo* umquam potuit, utram sententiam *tulisset*. Damnatum autem opera maxime Appi *Claudi* pronuntiatum est. Milo postero die *nova*

6. *suam*, supplevi. 12. inveni KS. in Addendis: *invenio*.

15. **unus et L**: i.e. eighteen senators, seventeen equites, and sixteen *tribuni aerarii*. As the verdict was determined by a numerical majority of votes, and not by carrying two out of the three classes [*singuli ordines*], this gave an advantage to the privileged orders [Fam. viii. 8. 3]. For the number of the jury upon this and other occasions see Zumpt p. 32.

20. **M. Catonis**: see p. x.

23. **reo adfuerat**: Ascon. 35.

24. **M. Favonio**: cf. §§ 26, 44.

29. **pronuntiatum est**: the effect of this declaration would be to entitle him to the *praemium legis*, if he wished for it.

lege factus reus ambitus apud Manlium Torquatum absens damnatus est. Illa quoque lege accusator fuit eius Appius Claudius, et cum ei praemium lege daretur, negavit se eo uti. Subscripserunt ei ⟨*in*⟩ ambitus iudicio P. Valerius Leo et Cn. Domitius Cn. f. Post paucos dies quoque Milo apud M. Favonium quaesitorem de sodaliciis damnatus est accusante P. Fulvio Nerato, cui e lege praemium datum est. Deinde apud L. Fabium quaesitorem iterum absens damnatus est de vi: accusavit L. Cornificius et Q. Patulcius. Milo in exilium Massiliam intra paucissimos dies profectus est. Bona eius propter aeris alieni magnitudinem semuncia venierunt.

Post Milonem eadem lege Pompeia primus est accusatus M. Saufeius M. f., qui dux fuerat in expugnanda taberna Bovillis et Clodio occidendo. Accusaverunt eum L. Cassius, L. Fulcinius C. f., C. Valerius; defenderunt M. Cicero, M. Caelius, obtinueruntque ut una sententia absolveretur. Condemnaverunt senatores X, absolverunt VIII; condemnaverunt equites Romani VIIII, absolverunt VIII; sed ex tribunis aerariis X absolverunt VI damnaverunt: manifestumque odium Clodi saluti Saufeio fuit, cum eius vel peior causa | quàm Milonis fuisset, quod aperte 55 dux fuerat expugnandae tabernae. Repetitus deinde post paucos dies apud ⟨*C.*⟩ Considium quaesitorem est lege Plautia de vi,

22. *C.* suppl. KS in Addendis.

3. **se eo uti**: 'a phrase used by a person who declines a proffered favour: cf. Verr. ii. 42 illis quinque iudicibus *uti se negat*; Fam. ii. 17. 7 alariis Transpadanis *uti negarem* [Madvig]. As Appius was prosecuting for family reasons, he did not wish to be looked upon as a *quadruplator*.

4. **P. Valerius Leo**: Ascon. 35 *n.*

6. **P. Fulvio Nerato**: Ascon. 40 *n.*

8. **de vi**: this can hardly have been under the provisions of the *lex Plotia*, since the *quaesitor* in this court was C. Considius, Ascon. 55. Probably Milo was arraigned under the *lex Cornelia* in the *quaestio inter sicarios*. Cf. § 13 erant enim leges, erant quaestiones *vel de caede vel de vi*. The offence of Milo would come directly under the Cornelian law: cf. § 11 *n.*

10. **magnitudinem**: see p. xxx.

11. **semuncia**: the syndicate contracted to pay one twenty-fourth of the debts, i. e. 10*d.* in the pound.

13. **M. Saufeius**: we only know of him from Asconius. Another member of the family, Appius Saufeius, who died soon afterwards, appears to have been also concerned in the troubles of this year: cf. Att. vi. 1. 10 *Saufeium nostrum . . . fratris Appi* amorem erga me cum reliqua hereditate crevisse, qui declaravit quanti me faceret cum saepe, *tum in Bursa*. The *Saufeius noster* of this letter is probably L. Saufeius, a friend of Atticus. Pliny, N. H. vii. 183, refers to an Appius Saufeius as an example of sudden death: he died *e balineo reversus cum mulsum bibisset, ovumque sorberet*. I owe this reference to Mr. Purser.

22. **C. Considium**: sc. C. Considius Longus, the Pompeian governor of Africa in 51–50 B.C.: cf. Lig. 2. The *praenomen*, which is omitted in the MSS., cannot be spared. For similar omissions cf. 26, 65, 73.

subscriptione ea quod loca *publica* occupasset et cum telo fuisset; nam *dux fuerat* operarum Milonis. Accusaverunt C. Fidius, Cn. Aponius Cn. f., M. Seius . . . . . Sex. ⟨*f.*⟩; defenderunt M. Cicero, *M.* Terentius Varro Gibba. Absolutus *est sententiis* plenius quam prius: graves habuit XVIIII, absolutorias duas et XXX; sed e contrario hoc ac priore iudicio accidit: equites enim ac senatores eum absolverunt, tribuni aerarii damnaverunt.

Sex. autem Clodius, quo auctore corpus Clodi in curiam illatum fuit, accusantibus C. Caesennio Philone, M. Alfidio, defendente T. Flacconio, magno consensu damnatus est, sententiis sex et XL; absolutorias quinque omnino habuit, duas senatorum, tres equitum.

Multi praeterea et praesentes et cum citati non respondissent damnati sunt: ex quibus maxima pars fuit Clodianorum.

1. **quod . . . fuisset**: the words used here look like a quotation from the law. A similar charge was brought against Sestius—*cum multitudine in tribunatu et cum praesidio magno fuisse*, Sest. 78.

2. **Cn. Aponius**: possibly a relative of the P. Aponius mentioned in the speech, § 75 *n.*

3. **M. Seius**: probably a son of M. Seius, aedile in 74 B. C. (Willems, Sénat, i. 456).

4. **Varro Gibba**: a pupil of Cicero in oratory, Fam. xiii. 10. 2. He was quaestor to M. Brutus in 46 B. C., and appears to have died soon afterwards, Att. xiii. 48. 2.

8. **Sex. Clodius**: he was restored in 44 B. C. by Antony, who professed to have obtained the consent of Caesar previously, and also gained that of Cicero, Att. xiv. 13. A. B.

SCHOLIA BOBIENSIA IN OR. PRO MILONE

[I only give a selection, since a number of these notes are quite valueless. Deviations from the text of Orelli are recorded in the critical notes.]

ARGUMENTUM.

. . . cho esset utrimque inter servos obhorta iurgiosa certatio, et ad gladios usque processum; ut metu peragitatus ad Bovillas in cauponulam quandam P. Clodius fugiens concederet; quem secuti non sua sponte, ut in hac defensione Tullius loquitur pro sui officii necessitate, sed iussu domini, qui hoc maxime praeoptaverat, servi Milonis interemerint. Post quod facinus perpetratum, et nuntio Romam perlato, vehemens in Milonem invidia commota est; adlato etiam cadavere nobilissimi senatoris et popularis viri. Post denique, iniecto in curiam Hostiliam faces subiectae sunt ab turbulenta et sordida multitudine, cui vita P. Clodi nimium fructuosa in praeteritum fuerat et tunc mors acerba erat. Quibus turbis et seditionibus adversus Milonem flagrantibus, convocato senatu, decretum est caedem in Appia via contra rem p. esse commissam. Cn. etiam Pompeius, qui tunc sine collega tertium consulatum gerebat, tulit legem, ut de eadem caede extra ordinem quaereretur. Ac primo quidem iudices consederunt in aede Saturni. Et cernendam causam pro debita necessitudine nec minus voto, quo inimici sui interitum gratulabatur, Cicero suscepit. Sed quoniam et turbulenta res erat et confessa caedes et ad seditionem populus inflammatus et circumpositi iudicio milites, et non longe praesidens consul ipse Pompeius obnixe studens in damnationem Milonis, perferri defensio ista non potuit: nam metu consternatus et ipse Tullius

pedem rettulit; et exsistit alius praeterea liber actorum pro Milone, in quo omnia interrupta et inpolita et rudia, plena denique maximi terroris agnoscas. Sane orationem postea legitimo opere et maiore cura, utpote iam confirmatus animo et in securitate, conscripsit. Sed enim cum ratio defensionis huius ordinaretur, quonam modo et secundum quem potissimum statum agi pro Milone oporteret, M. Brutus existimavit κατὰ ἀντίστασιν pro eo esse dicendum, quae a nobis nominatur qualitas compensativa. Hoc enimvero Ciceroni visum est parum salubre, nam maluit . . . specie, id est rela . . .

COMMENTARIUS.

§ 7. Negant intueri lucem esse fas ei, qui a se hominem occisum esse fateatur.

Horatius victor domum regressus, occisis tribus Curiatis Albanorum, obviam sororem habuit deplangentem Atti Curiati obitum, cui desponsa fuerat. Ob *id* interfecit eam frater; et spolia Curiatorum (*sic*) trina fixit loco celebri, cui pilae Horatiae nomen est. Hic tamen caedis accusatus ab inimicis, cum capitis causam aput Tullum regem, patre defendente, dixisset; damnatus ad populum provocavit absolutusque est et tamen expiari iussus. Constitutis igitur duabus aris Iano Curiatio et Iunoni Sororiae, superque eas iniecto tigillo, Horatius sub iugum traductus est. Id expiamentum memoriae servatum ad hunc usque diem tigillum sororium appellatur.

§ 9. Gladium nobis ad hominem occidendum ab ipsis porrigi legibus.

Βιαίως auctoritatem XII. tabularum ad defendendam confessionem Milonis trahit, quae grassatoris interficiendi potestatem faciunt, per diem si armatus veniat, noctu vero quoquo modo venerit. (Ἐναντία) huic argumentatio est in illa oratione, quae PRO M. TULLIO inscribitur. Ibi quippe quoniam aliud praesentis negotii condicio poscebat, ipsas quoque XII. tabulas adseveravit excubare pro hominum salute, quae hanc interimendi potestatem non facile permiserint.

ib. Atqui si tempus est ullum iure hominis necandi. Pertinenter et cito a genere ad speciem prolapsus est, hoc iam confirmaturus alio exemplo et iudicato, insidiatorem P. Clodium interfici a Milone potuisse, quando etiam miles in exercitu C. Mari de tribuni sui interemptione confessus imperatoris ipsius iudicio liberatus sit. Fuit autem C. Lusius tribunus militum sororis filius C. Mari, qui bello Cimbrico P. Trebonium sive Arruntium militem suum liberali facie praeditum, quum partim minando partim praemio offerendo ad consensum stupri non potuisset inlicere, nocte intempesta pro potestate vocari . . . eundem iussit. Ille causam suspica*tus*.

§ 12. Declarant huius ambusti tribuni pl. Titum Munatium Plancum significari manifestum est, de cuius contionibus querulis et invidiosis illud confirmat orator, adeo universum senatum Miloni favisse, ut de potentia nimia sive gratia Ciceronis idem tribunus pl. in contione quereretur; quasi eo dante operam fieret, ut proclivior senatus esset ad liberandum Milonem. Hunc vero ambustum tribunum pl. eapropter dicit, quod aut videri hoc velit ipso instigante incensam curiam, aut eundem ardentis curiae incendio esse deterritum, quominus diu concionaretur. Et plane . . . quod sequitur 'intermortuae contiones,' quas suspicari possumus consternatas vicinitate flammarum.

§ 13. Cuius enim de incestu stupro iudicium decernendi senatui potestas esset erepta, de eius interitu quis potest credere, senatum iudicium novum constituendum putasse?

Hoc firmare contendit per coniecturam de animo senatus, nihil eum ad ulciscendum mortem P. Clodi voluntatis habuisse. Et ut magis eum gravaret, qui interemptus est, exemplum de criminibus eius adsumpsit; quod cum intra caerimonias Bonae Deae incestum cum pontificis uxore fecisset, nihil novae quaestionis potuerit senatus cernere, cum hoc maxime vellet; ita in hac parte nullius esse confirmat iuris scilicet auctoritatem. Et adhuc odio dignum facit eum, qui de incesto fuerit infamis.

ib. Cur igitur incendium curiae, oppugnationem aedium M. Lepidi, caedem senatus contra rem p. factam esse decrevit?

Incendium dicit, quo exarsit non *solum Clodii pyra*, sed curia quoque, *cum* domus M. Lepidi oppugnata esset. Nam M. Aemilius Lepidus cum interregno fungeretur, et plerique inita conspiratione hoc ab eo postularent, maxime urguentibus Milonis competitoribus, ut haberet comitia consularia; respondit, civiliter non posse per se comitia haberi, quoniam primus interrex illo tempore esset proditus biduo post interemptionem P. Clodi: et erat in vetere consuetudine, ut non is, qui primus interrex, sed qui loco secundo crearetur, comitia haberet. Non obsequens tamen illi conspiratae multitudini, quam Plautius Hypsaeus et Metellus Scipio concitaverat, in periculum deductus est, ut domus eius inpugnaretur, et obsidionem dierum quinque pateretur: cui ad extremum sola factio Milonis auxilio fuit; qua decertante cum adversaria perfectum est, ut eximeretur periculo quo artissime premebatur.

ib. Quia nulla vis umquam est in libera civitatae suscepta inter civis non contra rem p.

Et hoc munit exemplis pluribus eorum, quos ex usu rei p. constabat occisos; nihilominus in hisdem caedibus vis execranda fuerit, licet pro communi utilitate suscepta.

§ 14. Decernebat enim, ut veteribus *legibus* tantummodo extra ordinem quaereretur. Divisa sententia posest, tulante nescio quo.

Sensus hic in obscuritate est: illud enim in proposito habet Tullius docere, ab senatu nihil contra Milonem statutum. Et primo quidem ita conceptam fuisse sententiam, ut de illa caede veteribus legibus extra ordinem quaereretur; sed e diverso extitisse alium, qui contra diceret (sive Fufium Calenum, sive alius ille fuerit, videbimus) postularetque, ut sententiae divisio fieret. Hoc autem solebat accidere, cum videbatur aliquis per saturam de multis rebus unam sententiam dixisse: et habebat nonnunquam conexio huiusmodi rerum multarum fraudulentas captiones, ut rebus aequis res improbae miscerentur; atque ita blandimentis quibusdam obreperet ad obtinenda ea, quae si per se singulariter proponerentur, displicere deberent. Desiderabatur itaque, ut fieret sententiae divisio, hoc est, ut de

3. cum, *hoc loco* Stangl, (*qui* cod.): *cum M. Aemil.*

singulis, non de pluribus una sententia diceretur. Et illa ergo sententia, quae causa Milonis ferebatur, quasi non erat simplex; nam duo conplectebatur; ut et veteribus legibus et extra ordinem quaereretur. Huic sententiae dicit M. Tullius intercessum; atque ita factum, ut extra ordinem quidem quaereretur, non tamen vetusta, sed nova lege Pompeia. Pro Milone autem obnixe laborasse Q. Hortensius videbatur.

§ 16. Tribunus pl. M. Drusus occisus est.

Et hac responsione contra praeiudicium multis et fortibus exemplis inmoratur. Ac primo quidem dicit de Druso, qui consulibus Sexto Caesare et Philippo cum partes senatus in tribunatu suo contra plebem suscepisset; idem vero postea volens gratificari sociis et Latinis civitatem Romanam promisisset, ad extremum eiusdem pollicitationis implendae desperatione praeventus, in atrio domus suae incerto quo percussore confossus est.

ib. Cum P. Africano domi suae conquiescenti.

Hic P. Scipio Aemilianus, ut in proxumae orationis commentario iam locutus sum, quum Latinorum causam societatis iure contra C. Gracchum triumvirum eiusque collegas perseveranter defensurus esset, ne ager ipsorum divideretur, repentina morte domi suae interceptus est, non sine infamia et ipsius C. Gracchi et uxoris suae Semproniae: qui excessit vita sex et quinquaginta annos natus; in eiusque faucibus vestigia livoris inventa sunt. Super eius laudibus extat oratio C. Laeli sapientis, qua usus videtur Q. Fabius Maximus in laudatione mortui Scipionis; in cuius extrema parte haec verba sunt: 'QUIA PROPTER NEQUE TANTA DIIS INMORTALIBUS GRATIA HABERI POTEST, QUANTA HABENDA EST, QUOD IS CUM ILLO ANIMO ATQUE INGENIO HAC CIVITATE POTISSIMUM NATUS EST: NEQUE ITA MOLESTE ATQUE AEGRE FERRI QUAM FERUNDUM EST, CUM EO MORBO MORTEM OBIIT ET IN EODEM TEMPORE PERIIT, CUM ET VOBIS ET OMNIBUS, QUI HANC REM P. SALVAM VOLUNT, MAXIME VIVO OPUS EST, QUIRITES.'

§ 17. Proinde quasi Appius ille Caecus viam muniverit, non qua populus uteretur, sed ubi inpune sui posteri latrocinarentur.

Quoniam et augere poterat invidiam Milonis, et commendabilem facere memoriam P. Clodi Appiae viae mentio, in qua maiorum eius titulus eminebat, omnem hanc materiam cuiusdam taciti favoris defloravit orator : quasi ea non monumentum familiae suae P. Clodius habuerit, sed quoddam scelerum devorsorium : in qua occidisse M. etiam Papirium videbatur equitem Romanum. Eo scilicet tempore, quo decertatio ibidem *inter* Pompeianos et ipsius factionem commissa est, cum per fraudem emisisset e custodia Tigranis filium nuper ex Armenia per Cn. Pompeium sorte captivitatis abductum eique postestatem discedendi liberam permisisset, videtur e numero Pompeianorum M. Papirius interemptus.

§ 22. Dederas enim, quam contemneres populares. insanias, iam inde ab adulescentia documenta maxima.

. . . orationem converterat ad L. Domitium quaesitorem, cuius animum sine dubio ut efficacius Miloni adiuvando conciliaret adversus impetum seditiosorum, commonefecit eum constantiae suae, cuius exempla edidisse nuper in adulescentia videbatur. Nam quum C. Manilius post annum tribunatus sui, quem turbulentissime gesserat, causam de maiestate dicturus esset, accusante Cn. Municio, id egit per multitudinem conspiratam, *ut* obsideret eundem Cn. Municium accusatorem suum ; cui obsesso auxilium tulit adgregata bonorum multitudine L. hic Domitius, ad quem loquitur, et quem vult in praesentiarum rerum exempla illius pristini vigoris imitari.

§ 29. Statim complures in hunc faciunt de loco superiore impetum.

Pars haec narrationis aliquanto turbatior est. Sine dubio in ea multa finguntur ; verum hanc omnem confusissimam permixtionem cursim praetervolat : non enim debent cum mora protrahi, quae videri iudicibus possunt aliquod habere figmentum ; ne orator, si laciniosus sit, in mendacio deprehendatur.

ib. Adgressi redarium occidunt.

Quos nunc vulgo muliones dicimus, eos scilicet, qui iumenta vehiculis subiuncta moderantur et regunt, eos veteres, ut animadvertis, redarios dicebant ; muliones autem proprie eos, qui

4. ea, Stangl, cod. : *eam*.
7. Eo . . . interemptus, *ita locum interpunxit Stangl, recte.*

negotiationem lucri sui causa in huiusmodi iumentis exercebant: quamvis et in filippicis mulionem Ventidium dixerit eapropter, quod de publico redemerat iumentorum praebitionem, quae essent aput exercitum necessaria.

ib. Partim recurrere ad raedam, ut a tergo adorirentur Milonem.

Et considerato statim miram prudentiam, quod ita narrationem summaverit, ut cum dominum crederent interemptum, fecerunt id servi Milonis: deinde κατὰ γένος in criminis causa; sed ut factum est, *nec imperante domino nec sciente.* Ibidemque continuo κλέμμα subiunxit, id est, furtum quoddam invidiosae commemorationis; quoniam consequens erat, ut dicerent 'occiderunt inimicum domini sui'; sed cautius multo existimavit οὗτος hoc perstringere sic desinendo: '*fecerunt id quod suos quisque servos*'; subtracta re, qua reus potuisset onerari.

§ 39. P. Lentulus restitutor salutis meae.

De Lentulo Spinthere loquitur, qui et ante consulatum amicissimus Ciceroni fuit. Hoc declarat ipse Tullius in epistula quadam ad eundem Lentulum scribens: 'quia non solum temporibus his, quae per te sum adeptus, sed iam olim nascenti prope nostrae laudi dignitatique favisti.' In Albanum Lentulus idem pro Cicerone contenderat ad Pompeium deprecandum, qui nimis alienatus a protegendo Tullio videbatur.

ib. Septem praetores, octo tribuni plebis.

Praetorum *e* numero unus defuit Appius Claudius, tribunorum e numero Q. Numerius et Atilius Serranus; qui restitutioni Ciceronis adversati esse traduntur.

§ 40. Cum *in* Cn. Pompeium pro Milone dicentem impetus factus est.

Id tempus et hic significatur, quo Miloni diem dixit P. Clodius, quod gladiatores adhibuisset, ut rogationem posset de Cicerone perferre.

ib. Nuper vero cum M. Antonius.

Hoc quoque inter facultates opportuniores enumerat, quas quum habuerit Milo, abstinuerit tamen caede faciunda. Sed de

4. essent, Stangl: *esset.*
19. quadam, Stangl: *quam ad.* scribens, Stangl, cod.: *scribit.*

M. Antonio quod ait, et in Filippicis secunda oratione hoc idem contestatur his ut opinor verbis: 'quidnam homines putarent, si tum occisus esset, cum tu illum in foro, inspectante populo Romano, gladio insecutus es, negotiumque transegisses, nisi ille in scalas tabernae librariae se con*iecisset* . . . .'

§ 47. Scitis fuisse, qui in hac rogatione suadenda diceret, Milonis manu caedem esse factam, consilio vero maioris alicuius.

Interrupit exsecutionis cursum facta . . . propter suam personam, de qua infamiam severant, quasi auctor et consiliarius Miloni fuisset in necem Clodii. Hoc brevissime purgat, si constet non in via futurum, sed magis in Albano fuisse mansurum.

§ 49. Primum nihil erat cur properato opus esset.

Verbum hoc properandi non sum nescius aput quosdam indifferenter accipi, ac solere unum videri festinare et properare. Visum est igitur mihi propter eos, quibus aliquod studium proprie loquendi est, auctore ipso M. Catone haec verba distinguere: quippe aliut esse properare, aliut festinare, ipse nos, ut dicebam, Cato docuit in oratione, quae inscribitur 'DE VIRTUTE SUA CONTRA THERMUM.' Eius igitur verba ponamus, qui sic ait: 'NAM ALIUT PROPERARE, ALIUT FESTINARE. QUI UNUM QUODQUE MATURE TRANSIGIT, PROPERAT: QUI MULTA SIMUL INCIPIT NEQUE PERFICIT, FESTINAT.'

§ 102. Quid respondebo liberis meis? quid tibi, Quinte frater?

Opportunissime fortunam Milonis per totam domum suam familiamque communicat, ut congregata per multos miseratio magis commoveat adfectus Frater autem Ciceronis Q. Tullius legatione tunc in Gallia aput exercitum Caesaris fungebatur.

§ 105. Vos oro obtestorque, iudices, ut in sententiis ferundis quod sentiatis, id audeatis.

Destiturus orator ibi finem posuit, ubi maxime necessarium videbatur, ne iudices in pronuntiando Pompeium timerent, quem praesentem verentur.

APPENDIX I.

The Date of the Trial of Milo.

According to the MSS. reading in Ascon. 31 the speech of Cicero was delivered *a. d. vi Id. April.*, i. e. on April 8. In another passage, where he speaks of the *summus iudici dies* (Ascon. 41), *a. d. vi* is introduced by conjecture. The MSS. give *a. d. iii*, or *ii*. The same authority says (Ascon. 40) that the day fixed for the beginning of the trial was April 4, *prid. Non. April. reum adesse iussit.* If these dates are accepted, the trial should extend over five days.

In the account of what actually took place, however, we find only four days mentioned. Asconius is here perfectly explicit. He says *primo die* there was a riot, then *per biduum* the witnesses were heard in silence, then *postero die, qui fuit iudici summus*, came the *sortitio iudicum* and the pleading (Ascon. 41). At the end of the third day a *contio* was addressed by Plancus, who urged the multitude to attend *postero die*, and intimidate the jury. This *contio*, he says elsewhere (on § 71), was held *post audita et obsignata testium verba*, and Cicero in the speech also calls it *hesterna contio* (§ 3).

The language of Asconius is less clear when he is giving the contents of the law (ib. 40). He says there that it was ordained that the witnesses should be heard *per triduum*, then *quarta die adesse omnes in diem posterum iuberentur ac . . . pilae . . . aequarentur, dein rursus postero die sortitio fieret*, &c. and the final hearing should take place. The old interpretation of this passage was that 'on the fourth day the jurors should be ordered to assemble on the following, i.e. the fifth, day, and the *aequatio pilorum* should take place. Then on the following, i.e. the fifth, day the pleadings were to ensue.'

Some editors, accepting this scheme, suppose that the fourth day of the trial was practically 'a blank day,' nothing taking place in it beyond the *aequatio pilorum*. A fatal objection to this is that in this case the speech of Plancus, which came immediately after the hearing of the evidence, would have been not on the eve of the *summus dies*, as is repeatedly asserted, but of the day before it. Also it does not agree with the subsequent account, where only four days are mentioned. Further Pompey, who was accused of hurrying the process of the law,

would not be likely to allow a 'blank day' during which intrigues might be practised.

Halm accordingly supposes that, although the trial was originally meant to extend over five days, 'for some unexplained reason,' the proceedings were curtailed, the *aequatio pilorum* being taken on the third day. He does not however notice that, if so, either the trial did not begin on the fourth, or else it ended before the eighth of April.

It is now generally recognized that the supposed discrepancy in Asconius rests upon a mistranslation. When he says *quarta die . . . adesse iuberentur* he means 'they were ordered to be present on the fourth day,' not 'on the fourth day they were ordered to be present,' i.e. next day. (It is usual, and probably right, to cut out *in diem posterum* as an addition. The passage can, however, be construed in this sense with them, since in legal language such pleonasms are not uncommon.) For the construction of the passage I refer to my note.

According to this explanation, which is that of Wirz and Richter-Eberhard, the diary of the trial would be:—

Days 1–3. Hearing of evidence, followed by the *aequatio pilorum*.

Day 4. *Sortitio*, and speeches.

The *contio* of Plancus would come on the third day *post audita et obsign. test. verba*, and on the eve of the *summus dies* according to the testimony of Cicero and Asconius.

A difficulty, however, still remains, since the five days, April 4 to 8, have in some way to be accounted for. It is therefore supposed that, although *prid. Non. April. Milo adfuit*, the trial did not actually begin on that day, but on the fifth, the fourth being given up to preliminaries, e.g. the hearing of the evidence obtained from slaves. According to this view, when Asconius says *primo die*, he means on the second day, or, as Richter-Eberhard say on *quarta die*, 'Am vierten Tage—also dem fünften des ganzen Prozesses—fand die Schlussverhandlung statt.'

The solution which I propose is a different one. The date upon which the trial began, sc. *prid. Non. April.*, cannot have been corrupted. That on which the verdict was given is, however, in a very different position, A.D. vi is only given by the MSS. in Ascon. 31, in 41 they have A.D. iii or ii. I read A.D. vii in both places, i.e. April 7. The confusion of numerals is so constant in MSS. as not to require illustration. The omission or insertion of *i* before *Idus* is especially easy. Thus Fam i. 5[b]. 1. we find *a. d. viii Idus*, whereas Q. F. ii. 3 the same events are ascribed to *a. d. vii Idus*[1]. In Asconius the dates given by the

[1] Compare Schmidt, de epistolis et a Cassio et ad Cassium, p. 40, and Mendelssohn, Epp. ad Fam. p. 459. n. 3. I owe these references to Mr. Purser.

MSS. have to be continually corrected, e. g. 32, 40, 51, 54. I would submit that this is a more simple explanation than to suppose that when Asconius says *primo die* he means, not the day when Milo *adfuit*, but the day afterwards.

There is, however, one difficulty in the way of this proposal, the importance of which I do not wish to underrate. In § 98 Cicero says, *centesima* lux est haec ab interitu P. Clodi et, opinor, *altera*, i. e. according to the natural meaning of the words, 102nd. The reckoning as given by modern editors is :—

Jan. 18–29	=	12 days.
Feb.	=	23 „
Mensis intercalaris	=	28 „
March	=	31 „
April 1–8	=	8 „
		102 days.

If these figures are correct, then from Jan. 18 to April 7 would be 101 days only. It is of course possible that Cicero is calculating roughly, and perhaps not impossible that *centesima et altera* may mean 101st, not 102nd. I should, however, prefer to say that our knowledge of the Roman system of intercalation is not sufficiently certain to enable us to reckon with absolute accuracy. The intercalary month began sometimes on the 23rd, and sometimes on the 24th of Feb., sometimes consisting of 28 and sometimes 27 days. The possibility of a special *intercalaris dies* is also a point upon which critics are not yet agreed. The subject is, however, a thorny and intricate one, upon which I do not feel myself competent to pronounce, and I merely indicate the difficulty which exists.

APPENDIX II.

The Trial of the Two Tribunes.

The extraordinary powers conferred upon Pompey were given him to enable him to accomplish a special task, which he performed with dispatch. His enemies accused him of 'hurrying the course of law[1],' and criticised the system under which a case was disposed of in a single

[1] Caelius, *ap.* Ascon. 37 'iudicia praecipitari.'

day[1]. He appears to have looked upon his office as a virtual dictatorship. A dictator retained his power for six months only, and Pompey voluntarily imposed upon himself a similar restriction of time. Upon the first of August he, as Mommsen says, 'resigned his dictatorship, and shared the consulship with his client, Metellus Scipio[2].' It is obvious that by this time his task must have been completed, since otherwise he would not have surrendered the extraordinary powers granted to him. Two trials, however, those of the tribunes, Plancus Bursa and Pompeius Rufus, are supposed to have taken place sometime after the others, at the end of the year, or early in 51 B.C. This is inferred from the well-known fact that the tribunes entered upon and vacated office on Dec. 10. It is therefore argued that their trial must have been subsequent to this date. The most important document bearing upon the subject is a letter of Cicero, written shortly after the condemnation of Bursa[3]. In this he says, 'nos hic in *multitudine et celebritate iudiciorum et novis legibus* ita distinemur, ut cotidie vota faciamus, ne intercaletur, ut quam primum te videre possimus,' i.e. he is very busy with cases, and fears that the vacation, during which he would visit his correspondent, may be put off by a possible intercalation. Schmidt, in his careful discussion of the date to be assigned to this letter, is inclined to place the trial of Plancus at the end of January, or the beginning of February in 51[4]. I would remark that the phrase *multitudo et celebritas iudiciorum* would be appropriate if it were written at the time when Cicero and Hortensius were pleading every day in fresh cases[5], but is somewhat out of place, if these two trials came by themselves and formed a sequel to the general body of cases. The mention of *novae leges* also suggests the period of Pompey's exceptional power, rather than 51 B.C., when he was no longer in office, and things had gone back to their normal condition. The intercalation referred to is supposed by Schmidt to be the ordinary one of a month in February, such as had taken place in 52 B.C. As a matter of fact, however, there was no intercalation in 51, so that, if this was what Cicero feared, his apprehensions were not realised. In the accounts given by later writers, it is never hinted in any way that the cases of the two tribunes were separated by any considerable interval from the others. Dio Cassius[6] says ὅ τε οὖν Μίλων οὕτως ἑάλω καὶ ὁ Ῥοῦφος ὅ τε Πλάγκος, ἐπειδὴ πρῶτον ἐκ τῆς ἀρχῆς ἐξῆλθον, ἄλλοι τε σὺν αὐτοῖς συχνοί, a passage which would be very carelessly written, if Milo was tried in

[1] Caesar, B. C. iii. 1. 4 'iudicia . . . singulis diebus erant perfecta.'
[2] iv. 327. [3] Fam. vii. 2.
[4] Schmidt, O.E., die Briefwechsel des M. T. Cicero (Teubner, 1893), p. 71.
[5] Brut. 324. [6] Dio C. xl. 53.

April, the *συχνοί* after him, and the tribunes in the January of the next year. Plutarch is more definite. He mentions first the accusation brought against Metellus Scipio, which of course was prior to Aug. 1, then the condemnation of Plancus, *after which* (*ὀλίγαις ὕστερον ἡμέραις*) Hypsaeus was accused[1]. No one, however, supposes that Hypsaeus was tried in 51, since in his case there was no reason for delay. It is obvious that Plutarch also, rightly or wrongly, conceived that the two tribunes figured among the multitude of persons brought to trial while Pompey was sole-consul.

That the statement of Dio Cassius previously quoted is not due to carelessness or inaccuracy of expression is clear from another passage, in which, speaking of events in the earlier part of 53 B.C., he says that Rufus, one of the two tribunes in question, was already in office[2]. His story is very definite. The consuls that year were elected *ἑβδόμῳ μηνί*, and would not have been elected even then, unless Quintus Pompeius Rufus *καίτοι τοῦ τε Σύλλου θυγατριδοῦς ὢν καὶ δημαρχῶν* had been imprisoned. A *sen. cons.* threatening others who acted in the same way with similar penalties was passed, and Pompey was entrusted with the task of carrying it out. The tribunes, he says, *ἐκώλυον τὰς λοιπὰς ἀρχὰς αἱρεθῆναι*, and themselves usurped the functions of the other magistrates. According then to the conception of Dio, Pompeius Rufus, and with him Plancus and the other tribunes, whom we know to have been in office in the earlier part of 52, were also in office in the middle of 53, instead of entering this on Dec. 10, 53 as is generally supposed. In order to avoid this conclusion it is usual to suppose that Dio made a mistake and called Rufus tribune, when he was only *designatus*. This, however, does not suit the context. Dio goes on to narrate that Rufus afterwards imprisoned Favonius, then curule aedile, i.e. in virtue of his *prensio* (Aul. Gell. xiii. 12) as tribune. The story has been doubted, because it is thought unlikely that a tribune would have been subjected to such indignity during his year of office. The act, it is true, was a revolutionary one, but the circumstances were also exceptional. A *coup d'état* was necessary in order to restore order. The *maiestas tribunicia*[3] had been so frequently disregarded that the senate may well have ventured to go one step further. With reference to the credibility of Dio it must be remembered that his information for this period is considered very good by modern critics, who generally think that it is derived from the lost books of Livy[4].

[1] Plut. Pomp. 55.
[2] Dio C. xl. 45.
[3] Ascon. in Cornel. 60.
[4] Grohs, H., der Werth des Geschichtwerkes des Cassius Dio als Quelle für die

The suggestion which will naturally present itself to the mind of the reader is that in the general anarchy, which prevailed at this period, the election of tribunes had become dislocated, and that the college of tribunes to which Rufus and Plancus belonged came into office early in 53 B.C., going out at the corresponding time in 52. This hypothesis reconciles at once all the difficulties alluded to. In May or June 52, Cicero would naturally speak of the *multitudo et celebritas iudiciorum*, Dio may well be correct in placing the trial of the συχνοί after that of Rufus and Plancus, and Plutarch in representing that the case of Hypsaeus came after theirs.

It may be asked, 'What is meant by the reference to a possible intercalation, made by Cicero in the letter previously quoted?' In reply to this, I would point out that Pompey apparently wished to complete his task by Aug. 1. For this there were two reasons. In the first place he modelled his conduct upon that of the dictator, who held office for six months only. Secondly, it is well known that the last five months of the year were occupied by *ludi*[1], during which it was not usual for the courts to sit, although it is true that an exception had been previously made in trials for *vis*[2]. In his wish to complete the trials before August he may have threatened to insert an intercalary month[3]. The autumn vacation would thereby be delayed, and with it Cicero's visit to his friend.

I am well aware that there is a grave constitutional difficulty in the way of this otherwise simple explanation. Roman law made no provision in the case of the tribunate corresponding to the *interregnum*, which ensued when there were no consuls. It was therefore a heinous offence *plebem sine tribunis relinquere*[4]. At the same time it is undoubted that the meetings of the *concilium plebis*, in which the tribunes were elected, might be broken up by the methods which are so familiar in connexion with the *comitia*. The plebeian assembly might be dissolved if thunder were heard; an omen which the tribune was bound to take due notice of. The tribunes elected might be declared to have

Geschichte der Jahre 49-44 A.C., Züllichau, 1884. The prominent place given to prodigies and omens in these books is highly characteristic of Livy.

[1] Verr. Actio Prima, 31. [2] Cael. 1.

[3] Cf. the very interesting passage, Verr. ii. 129. Verres, by an abuse of the system of *dies* ἐξαιρέσιμοι, took a month and a half out of the year at Cephaloedium, so that the inhabitants afterwards had to insert *mensem intercalarium xlv dies longum*. If he could have done this at Rome, *expugnasset iste, ut dies xlv inter binos ludos tolleretur, per quos solos iudicium fieri posset*. This would have been exactly opposite to the course, which, on this hypothesis, Pompey threatened to adopt.

[4] Staatsrecht, ii. 279.

been *vitio creati*. Also, *obnuntiatio* might be employed either by a tribune, or by a higher magistrate. An augur could also report unfavourable omens, or state the occurrence of a *vitium*. The only check upon the use of these means of obstruction lay in the good feeling or public spirit of those who were qualified to act thus. Mommsen says, 'the *plebs* and their leaders apparently avoided the consequences, which might have followed from the use of the *oblativa auspicia*, and which actually followed in the case of the meetings of the *populus*[1].' It is obvious that at this period such considerations might cease to exercise a restraining influence. I think it possibly worth while to mention that one of the consuls for 54, Appius Claudius Pulcher, may have had an interest in delaying the election of tribunes for the following year. He could not obtain a *lex curiata*, which it was customary for a *proconsul* to have passed in his behalf before going to his province[2]. This was of course due to the fact that the passage of this was vetoed by a tribune. If, however, the election of new tribunes were delayed by the means which it was in his power to employ, he would be able to get his *lex curiata* passed after the obstructionists had gone out of office on Dec. 10. In view of this conjecture it is interesting to note that, upon his return from Cilicia in 51, he was arraigned for *maiestas*[3]. The question as to who would convene the plebeian assembly, if there were no tribunes, is one that is wrapped in the deepest obscurity. One occasion, when the difficulty must certainly have arisen, is in 449 B.C., after the termination of the decemvirate[4]. This, however, is a subject which I do not feel myself competent to discuss. The point upon which I here desire to lay stress is that the explanation advanced above is the only one which agrees with the statements of our various authorities for the events of this year.

[1] ib. 285. [2] Fam. i. 9. 25. [3] ib. iii. 11. 3.

[4] Livy iii. 54 states that on this occasion a *sen. cons.* was passed *ut . . . Q. Furius pontifex maximus tribunos plebi crearet*. A similar statement was made by Cicero in his speech *pro Cornelio* (Ascon. 77) *decem tr. pl. per pontificem, quod magistratus nullus erat, creaverunt*. Asconius, who does not question the accuracy of the statement, says that the *pontifex* was named M. Papirius. To reject contemptuously so well-attested a tradition, because it conflicts with our notions respecting the tribunate, as was formerly done by Mommsen, appears to me to savour of dogmatism. [Staatsrecht, ii. 33. 2, ed. i.; in ed. iii. 37 he speaks less confidently.]

APPENDIX III.

Additional Readings from P.

I add below the following readings of P, which are not mentioned by Peyron, but have been communicated to me by the kindness of Dr. C. O. Zuretti. The collation of Peyron is recorded in his edition (Stuttgart 1824), and is printed in full in Baiter's critical notes. Baiter has sometimes erred in attributing to P a reading, printed by Peyron silently, for which he does not quote P. Most of the points not noticed by Peyron are peculiarities of orthography. The references are to the pages and lines of this edition.

P. 26, l. 2. quisq., *syll.* que *hoc compendio semper scr.*, *e.g.* itaq., castrisq. *et similia.* 3. sicut *inest* (*sil. Peyron*). *ib.* iud. (= *iudices*), *ita* 31. 4, 83. 10, 85. 4. 4. res p., *ita* rem p., rei p., re p. *sed* 83. 14 r. p. (= *re p.*). 6. quit omn. 9. sic hoc ratio, *litt.* c *deletam esse non vidit Peyron.* 10. gentib., *ita semper similia*, *e.g.* omnib., furorib. *etc.* *ib.* praescribsit.

P. 27, l. 9. iniuria *ex* iniuriam *corr.* 16. inpune. *ib.* si *ante* ille *sup. lin. add. m.* 2. 19. magna^{m} ei.

P. 31, l. 13. enimtendum.

P. 32, l. 8. improbos (*Bait.* inprobos).

P. 63, l. 7. populus R. 12. compulit (*Bait.* conpulit).

P. 64, l. 2. iniustis] iuniustis. 5. C. *vel* T. Varium (*Peyron*, P. Varium). 8. IANICO^{CUL}. 9. eq. R., *ita* 85. 1, *et* 84. 6. equitib. R.

P. 65, l. 4. CU~~M~~ VIRO.

P. 76, l. 12. adq. (= atque), *ita* 83. 4, 84. 1, 85. 3, *sed* 64. 5, 83. 5, 16 atq. *scr.* 16. teterrimo (*Bait.* taeterrimo).

P. 77, l. 4. paecunia.

P. 82, l. 8. optesterq. 10. implorat, *sed eadem lin.* inploro. *ib.* ET POSCO^{EX}.

P. 83, l. 1. aspexistis. 3. haut. multao sit. 5. SUPPLICŪM̄. obsecrantis. 6. fortis. 7. offerentis. 11. adsiduae.

P. 84, l. 2. ad carebo. oppraessaȧ. 9. saepissimae.

P. 85, l. 1. Italia^{e}. 4. optuli.

APPENDIX IV.

Mediaeval Argument to the Speech.

[This curious introduction to the speech is found in H and E. In H it is out of place, occurring after the speech 'de Imperio Cn. Pompei,' and being followed without any mark of division by some selections from the Verrines [iii and iv]. In E it is given in the margin of the first page of the 'pro Milone.' I have thought it worth printing since it throws some light upon the relationship of the two MSS. It will be noticed that the alterations of the second hand in H are generally reproduced in E. The agreement of HE in the somewhat eccentric punctuation strikingly illustrates the fidelity of mediaeval copyists. For this Argument, as it appears in E, see Freund's facsimile and Baiter-Halm, II. 2. p. 1152.]

P. Clodius senator seditiosus erat · et tirannicis moribus is multis iniurias fecit · et caedes · et incendia · et implerisque imitatus catilinam · cateruas habebat circum se ciuium perditorum · Erat autem inimicus miloni · ṽ. c. et bene merito de rep. repente igitur milone consule petebat clodius praeturam · qui[a] igitur sub milone consule uidebat se fore pretorem clodius · metuens uirtutes milonis · et sciens quod non mori geraturus · sed compressurus sit milo iniurias quas facere proposuerat clodius · statuit insidiis adgrediendum et dum proficissitur milo ad lanuum oppidum · collectis seruis · suis et latronibus · incepit inuia pugnare · milo uero desiluit · et ex dextero latere recedere pugnabat · Clodius autem cum uenisset · in altera parte · et contendere uidisset seruos milonis . quid con,ditis[ten] inquid · cum iam dominus uester occisus sit? Serui uero · fideles · rati reuera eum dixisse · mox interfecerunt. Post haec lelius clodii sodalis satelles · quo cum et leges praeturae conscripserat · corpus eius attulit romam · et plurimum tumultum excitauit · et globo facto cl[o]audianorum · pars curiae incensa est · et caedes admissae sunt · atque insuper reus fit cedis milo · Tum pomp̃ · dictator · cauens inuidiam · iudices dedit · optimos et fortissimos uiros inquibus domicium principem spernentem minas tumultuosorum · et armatos milites circum

1. *moribus. Is* m. 2, E. 2. imitatus: *mutatis* E. 4. *re p.* m. 2, E. 5. *a* sup. l. m. 2, *quia* E. 7. *moriger.* m. 2, E. 8. post *adgred.* punctum add. E. *proficiscitur* m. 2, E. 9. *seruis suis* sine puncto E. 11. *alteram partem* E. 12. *contenditis* E. 13. *re uera* m. 2. 16. *clodianorum* E. 17. *caedis* E. *pompeius* E.

tribunal constituit · ut cum quiete res · diudicaretur · Notauerat autem senatus rem cum pompeio · et examinari strictius praeceperat · quasi contra rem publicam cedibus commisis et concendio · et aliis facinoribus . quod claudiani pro praeiudicio et pro suo auxilio uindicabant · quasi iam data sententia esset contra milonem · ut non possit locus esse excusationi · pro quo · M. cicero dicens · primum refellit omnia praeiudicia · et ostendit insidiarum milonem ac lodio · et cedem iure factam a servis milonem contra eum · qui prior insidias tendisset · nihilominus tamen manifesta caedes uindicata · Nam in exilium missus est milo sententia iudicum · in tomeas sythiae.

3. *-s* sup. l. m. 2 : *commisisset* E. *incendio* E. 4. *-o-* sup. l. m. 2 : *clodiani* E. 5. *sentencia* E, ita l. 10. 7. *-t* sup. l. m. 2, *insidiatum* E. *a clodio* m. 2, E. 8. *-is* sup. l. m. 2 : *milonis* E. *te* sup. l. m. 2 : *tetendisset* E. *nichilominus* E. 10. *-h* sup. l. m. 2 : *thomeas* E.

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